SENATE—*Wednesday, May 7, 1997*

The Senate met at 9:30 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:

Holy Lord God, who has commanded Your people to have no other gods before You, we pray for the honesty to face any idols in our hearts that compete with You as absolute sovereign of our lives. We confess that sometimes we can slip into the idolization of the approval of people, the accolades our work can produce, the success that can become addictive, the human power that can become a seduction of the secondary.

As we begin this new day, we want to clear out the throne room of our hearts and evict all those things that clamor for the first place in our lives. We belong first, foremost, and always to You, and are here to glorify You by serving our Nation.

With our priorities clear, we pray in the words of William Cowper:

The dearest idol I have known
Whatever that idol be
Help me to tear it from Thy throne
And worship only Thee.
Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator STEVENS of Alaska, is recognized.

SCHEDULE

Mr. STEVENS. Mr. President, on behalf of the majority leader, this morning the Senate will resume consideration of S. 672, the supplemental appropriations bill. Under the order, there will be 30 minutes of debate, equally divided between myself and Senator BYRD, with the cloture vote occurring on S. 672 following that debate. All Senators should anticipate that the vote will occur at approximately 10 a.m. this morning.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The PRESIDING OFFICER. The Senate will resume consideration of S. 672, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Reid/Baucus amendment No. 171, to substitute provisions waiving formal consultation requirements and "takings" liability under the Endangered Species Act for operating and repairing flood control projects damaged by flooding.

UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, I now ask unanimous consent that it be in order to file second-degree amendments until 10 a.m. this morning.

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

Mr. STEVENS. Following that vote, additional amendments are expected to the supplemental appropriations bill. Rollcall votes will occur throughout today's session. It is the majority leader's intention to complete action on the bill as soon as possible, so Members who intend to offer amendments should be prepared to do so as soon as possible during today's session.

Mr. President, there are 109 amendments filed to this bill. I plead with the Senate to vote cloture on this bill so we will have a means of managing this bill. It is a disaster relief bill.

I now yield 5 minutes of the time allocated to me to Senator HAGEL for the purpose of making a statement as in morning business, and ask that the statement appear at the appropriate place in the RECORD after the cloture vote.

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

Mr. HAGEL addressed the Chair.

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

(The remarks of Mr. HAGEL pertaining to the introduction of S. 709 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 140

(Purpose: To modify eligibility for emergency rail assistance funds in the bill)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BYRD, proposes an amendment numbered 140.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 28, line 8, strike the words "in the Northern Plains states" and insert "in September 1996, and".

Mr. STEVENS. Mr. President, this modifies the eligibility for emergency rail assistance funds under the bill. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 140) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, later this morning, the Senate is going to vote, as I said, as near to 10 o'clock as possible. I regret that this step is necessary. I didn't think it would be necessary to have cloture. Senator BYRD and I have spent 2 days trying to resolve difficulties on the bill regarding amendments. As I said, 109 first-degree amendments are pending with regard to this bill. We simply cannot wait to move on the legislation. It does have millions of dollars for assistance to victims of the disasters. Those disasters, Mr. President, occurred in 33 States.

The bill provides $1.8 billion to the Department of Defense for overseas contingency operations. This is for money that has already been spent on activities in Bosnia and Southwest Asia, and it replaces the funds that are critical to operating and maintenance accounts and personnel accounts to assure regular training and quality-of-life programs for the Department of Defense personnel through the remainder of 1997.

Let me make that clear. The money has been spent, but it was spent from very critical accounts under the power of the Presidency. We need to reprogram moneys into those accounts in massive amounts to assure that in the last quarter of this year, there is regular training and maintenance of our readiness.

Now, last night, we commenced a bipartisan review of all the amendments presented by 2:30. We hope we can work out or accept many of those. I urge any Member who is serious about the appropriations and has an amendment to this bill that is germane, to come to the floor so we can clear as many of the amendments as possible. It is my intention, after consulting with Senator BYRD, to take a very strict view to amendments in a post-cloture environment. I think that is what the Senate will want to do—consider germane amendments and move forward to this bill. Nongermane legislative amendments will be subject to a ruling by the

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

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Chair, and that will be taken up after cloture. But as I said, this is an emergency, although the funds—like the Department of Defense funds, money is being spent on the disaster now from other accounts available to the executive branch, so we must replace that money and make further money available.

We have placed the money to keep the Government going, where the money has been borrowed for a short period of time, under the procedures available for disasters. We must make these moneys available. This is a 500-year flood, Mr. President. This is one of the most severe disasters we have had since the Johnstown flood. If we are successful here, I think we can proceed very quickly.

The distinguished chairman of the Budget Committee has concluded the budget agreement. He will manage the budget presentation following the action on this bill. That is my understanding. We hope that we will be able to get that budget agreement through the Senate and then be able to proceed on the 1998 appropriations bills. So I ask Members to defer nonemergency matters until we bring up those bills.

Now that we have a budget agreement, we are certain we will be moving regular appropriations bills very quickly. Many of the amendments presented here to this bill are amendments that would be germane to the regular appropriations bills for the various agencies. But they are not germane to this bill. So I hope that there is a strict ruling by the Chair on the germaneness of these amendments that have been filed.

Now, we have worked several days to try and bring about compromises in several areas, such as the amendment pertaining to the continuing resolution concept that is in the bill, the census and endangered species. I hope that we can effect a compromise on each of those issues. If not, let's have the vote. We waited all afternoon yesterday to take up these issues. As the Chair knows, we were finally forced to recess last night so that we could get the control factor that will come from the cloture process.

As I said, I didn't think it would be necessary. As a matter of fact, I told the floor staff I didn't think we should even file that cloture motion. They thought we should, and I am glad we did. They were right and I was wrong.

Senator BYRD and I are going to work out the shortest time agreement possible on any amendments today. We expect to have many votes. I believe that we will begin to call up amendments from the eligible list as soon as the Chair rules on the amendments under cloture. As a matter of fact, we are available to take up amendments before 10 o'clock if anybody wants to come over and try to work one out before that time.

I have taken the bulk of my time, Mr. President. Let me, again, thank Senator BYRD for his cooperation. We have moved numerous amendments in a bipartisan fashion already. Later today, Senators CONRAD and DORGAN have asked us to meet with the mayor of Grand Forks, and we will do that. We are going to see some television footage. I saw some, as a matter of fact, on the news, but we intend to promise the mayor that we are going to finish this bill and get it to the President as soon as possible.

I am happy to yield the remainder of the time to Senator BYRD, if he wishes time at this time.

Mr. BYRD. Mr. President, I thank my colleague. I do not need more than a minute or so.

I shall vote for cloture, and I urge my colleagues on this side of the aisle to vote for cloture. We have been on the bill now 3 days. It is an emergency bill. The people who have been stricken by floods throughout the several States are in need of help. We should not delay matters here very long.

I also hope that many of the 110 amendments that have been filed will go away without being called up. There are others against which points of order would lie, and I intend to join with my friend and colleague, Mr. STEVENS, in making points of order against amendments that are not germane as he sees fit to do so. He is the manager of the bill, and I want to cooperate with him as much as possible.

So I hope that we can get on with the bill today and make good progress and, hopefully, complete action on it earlier than the close of business tomorrow. Mr. President, I yield the floor.

Mr. President, I yield the remainder of my time to Mr. STEVENS.

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

Mr. STEVENS. Thank you.

Mr. President, I want to raise the issue of a provision that is in the bill concerning section 2477 of the Revised Statutes—43 United States Code 932.

Some groups have been alleging in the press that the provision in the supplemental bill before us regarding rights-of-way under section 2477 of the Revised Statutes is going to result in roads across our national parks and wilderness. That is simply not true. These false allegations are being made in order to scare our constituents and to convince Members to oppose our provision.

Rights-of-way under Revised Statute 2477 were granted by statute from 1866 to 1976, when the provision was repealed. At the time of the repeal, all existing rights-of-way were specifically protected.

Rights-of-way under R.S. 2477 are granted across Federal lands not reserved for public uses.

When Congress sets aside land for a park or wilderness, that land is reserved for that purpose. Once the park or wilderness is created, no new right-of-way can be created under Revised Statute 2477.

This means that only rights-of-way that were created prior to the reservation of the land for a park or wilderness are valid under R.S. 2477.

To create a right-of-way under R.S. 2477, there must either have been public use of a right-of-way or an affirmative act of a State indicating that it accepted the grant and intends to use it for a public highway.

Most of this Nation's most famous parks were created during the 110 years that Revised Statute 2477 was available. Yellowstone was created in 1872.

Yosemite, Kings Canyon, and Sequoia were created in 1890. The Grand Canyon was set aside in 1908.

Denali, then known as Mount McKinley, was created in Alaska in 1917. Katmai in Alaska was established in 1918, and Glacier Bay National Park was created in 1925.

Zion National Park in Utah was created in 1919, with Bryce Canyon following in 1923, and the Arches National Park in 1929.

Throughout the 50 or more years of each of these parks' existence, a Revised Statute 2477 right-of-way could have been asserted, even before the provision was repealed. Yet, these parks have not been paved by public highways.

Congress began creating wilderness areas in 1964—12 years before Revised Statute 2477 was repealed. Section 5 of the Wilderness Act specifically preserves existing private rights.

It has been 20 years since Revised Statute 2477 was repealed and over 30 years since the creation of many major wilderness areas. During the 30 years of the policy of wilderness the same practice that the provision in the supplemental seeks to continue was in effect.

Yet, during those 30 years, we have not seen any of our wilderness areas covered with roads under Revised Statute 2477.

In Alaska, where 60 percent of the wilderness areas exist, we have already dealt with the issue. The Alaska National Interest Lands Conservation Act has numerous provisions that specifically deal with access to wilderness areas. Nothing in this provision changes the law regarding rights-of-way in Alaska.

On the contrary, the provision seeks to keep the pre-existing policy and specifically denies the Secretary of the Interior the right to unilaterally change the policy contrary to what Congress has said many times and what the courts have said many times. As a matter of fact, Congress has spoken three times in the past 2 years on this and stated that the Secretary cannot change the existing law and policy by regulation or by edict.

The people who claim this provision will lead to roads across wilderness

areas and parks already created by Congress are just plain wrong.

What is at issue here are areas that are not yet wilderness or that have been recently added by Executive action to our parks and monuments.

Mr. President, every time Congress has addressed that subject, it has protected valid existing rights, even in the creation of national parks and wildlife refuges.

Wilderness areas by definition don't have any roads. The environmental groups and the Department of the Interior are seeking to cut off valid rights-of-way in certain areas of the West so that those areas may be proclaimed wilderness.

I hope that the Senate understands this. If the Secretary of the Interior and these groups are allowed to prevail, then areas that do have existing valid rights-of-way, which should by law be given some consideration and may ineligible to become wilderness areas, could be created as additional wilderness and national park areas by Executive order or secretarial edict.

If they can keep the R.S. 2477 right-of-way from being recognized under State law, as they have been created for the past 130 years, then those areas would be roadless and eligible for wilderness designation by Congress.

That is the issue here. There are valid, existing rights-of-way across some of these areas. They have been used for decades by the public in the West. Those areas are not capable of being established as wilderness areas. But that is not for us to decide here.

All this provision does is maintain the status quo. If there are valid existing rights under R.S. 2477, they had to be created more than 20 years ago, before 1976.

The provision simply prevents the Secretary of the Interior from prejudging the issue in the ongoing review of which remaining Federal areas should be wilderness. This only preserves rights-of-way that already exist. It does not create new rights or new roads.

I hope that the Senate will seriously consider the issue that is coming before us today regarding Revised Statute 2477. Our intent is merely to keep the policy that has existed in the past and which has been protected by every act of Congress that I know of. The valid existing rights were protected. Those rights have been defined as far as rights-of-way under State law for 130 years.

This Secretary of the Interior now wants to have them decided under Federal law that his regulations would establish. That is contrary to the policy of Congress. It is contrary to the decisions of the courts of the United States, and it should not be done by secretarial edict.

As I said, we have acted in the National Highway System Designation Act of 1995, in the 1996 Interior appropriations bill and in the 1997 Interior appropriations bill to prevent those regulations from being issued. Now the Secretary wishes to announce a policy. That policy is that in the future the validity of the rights will be determined by Federal law. That is contrary to a whole series of court decisions and contrary to the acts of Congress that specifically recognize valid existing rights under State law.

Mr. President, I hope that this is going to be a short day. But I want to tell the Senate that it is our intention, as Senator BYRD has announced, to enforce the cloture motion. I call again on the Senate to vote for cloture. Give the managers of this bill the control that comes from the cloture process, and we will assure this bill passes to provide money to those in the disaster areas. The bill affects disasters in 33 States, Mr. President. We will give this bill to the conference and to the President as quickly as possible.

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

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

AMENDMENT NO. 208

Mr. STEVENS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 208.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill insert the following:

None of the funds made available in the Foreign Operations, Export Financing, and Related Programs, 1997, (as contained in Public Law 104–208) may be made available for assistance to Uruguay unless the Secretary of State certifies to the Committees on Appropriations that all cases involving seizure of U.S. business assets have been resolved.

Mr. STEVENS. Mr. President, this is an amendment that we hope will bring about an awareness of Government officials of Uruguay of a very sad situation with regard to the fishing assets from Washington State and Alaska that were entered into in a joint venture with a seafood company in Uruguay.

What happened was that the assets of the Americans were seized after they were in Uruguay territory, and the joint venture that was supposed to be forthcoming was dissolved by actions of the Uruguay citizens.

I offer this amendment sort of in frustration, trying to see if we can work out with the Uruguay Embassy here and officials in the State Department at Montevideo a resolution of this problem.

I hope that it has the salutary effect of calling the attention of the Uruguay Government to a very unsatisfactory development with regard to our business relationships.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 208) was agreed to.

Mr. STEVENS. Mr. President, this is the time for filing of second-degree amendments, I remind Senators. It is also the time set for the vote on cloture motion.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will read.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 672, the supplemental appropriations bill.

Trent Lott, Ted Stevens, Mike DeWine, Bob Bennett, Tim Hutchinson, Richard G. Lugar, Pete Domenici, Pat Roberts, Connie Mack, Frank H. Murkowski, Richard Shelby, Craig Thomas, Chuck Grassley, Christopher S. Bond, Michael B. Enzi, and Jeff Sessions.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the call of the quorum has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 672, the supplemental appropriations bill, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 100, nays 0, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—100

Abraham	Byrd	Dorgan
Akaka	Campbell	Durbin
Allard	Chafee	Enzi
Ashcroft	Cleland	Faircloth
Baucus	Coats	Feingold
Bennett	Cochran	Feinstein
Biden	Collins	Ford
Bingaman	Conrad	Frist
Bond	Coverdell	Glenn
Boxer	Craig	Gorton
Breaux	D'Amato	Graham
Brownback	Daschle	Gramm
Bryan	DeWine	Grams
Bumpers	Dodd	Grassley
Burns	Domenici	Gregg

Hagel	Leahy	Roth
Harkin	Levin	Santorum
Hatch	Lieberman	Sarbanes
Helms	Lott	Sessions
Hollings	Lugar	Shelby
Hutchinson	Mack	Smith (NH)
Hutchison	McCain	Smith (OR)
Inhofe	McConnell	Snowe
Inouye	Mikulski	Specter
Jeffords	Moseley-Braun	Stevens
Johnson	Moynihan	Thomas
Kempthorne	Murkowski	Thompson
Kennedy	Murray	Thurmond
Kerrey	Nickles	Torricelli
Kerry	Reed	Warner
Kohl	Reid	Wellstone
Kyl	Robb	Wyden
Landrieu	Roberts	
Lautenberg	Rockefeller	

The PRESIDING OFFICER (Mr. ALLARD). The Senate will please come to order.

On this vote, the yeas are 100, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. STEVENS. Mr. President, Senator BYRD and I are overwhelmed by the support of the Senate for this bill. I hope that will be demonstrated in the hours to come.

Mr. CHAFEE. Mr. President, might we have order, please? It is very difficult to hear.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from Alaska.

Mr. STEVENS. Mr. President, we would like to work up a schedule, rotating from one side to the other with amendments. I want to state to the Senate the amendments that have been filed touch or concern every one of our 13 subcommittees. Those subcommittees' staffs are standing by now to confer with any Member who really wants to pursue one of these 109 amendments that have been filed.

I ask the Chair to help us keep order. We would anticipate, for the information of the Senate, with the concurrence of the two leaders, that we would proceed with the D'Amato amendment and then the Bumpers amendment and, if possible, another amendment and have our first series of stacked votes sometime around 12:30 to 1 o'clock.

We will keep the Senate informed, but I do want the Senate to know we will try to stack votes so that none will occur prior to approximately 12:30 to 1 o'clock.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

AMENDMENT NO. 166

(Purpose: To rescind JOBS Funds, extend the transition period for aliens receiving SSI funds, and for other purposes)

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Reid amendment be laid aside.

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

Mr. D'AMATO. I ask that amendment No. 166 be called up and that Senator FEINSTEIN's name be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. CHAFEE, Mr. DEWINE, Mr. SPECTER, Mrs. FEINSTEIN, and Mrs. BOXER, proposes an amendment numbered 166.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 44, strike all after line 19, through line 2 on page 45, and insert in lieu thereof the following:

"JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 104–208, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(F) of the Social Security Act (as in effect on October 1, 1996) is amended by adding after the "," the following: "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),"."

On page 75, strike all after line 10 through line 22 on page 80, and insert in lieu thereof the following:

"TITLE VI—SUPPLEMENTAL SECURITY INCOME AMENDMENT

"SEC. 601. EXTENSION OF SSI REDETERMINATION PROVISIONS.

"(a) IN GENERAL.—Section 402(a)(2)(D) of the Personal Responsibility and work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(D) is amended—

"(1) in clause (i)—

"(A) in subclause (I), by striking the date which is 1 year after such date of enactment and inserting in lieu thereof September 30, 1997; and

"(B) in subclause (III), by striking the date of the redetermination with respect to such individual and inserting in lieu thereof September 30, 1997; and

"(b) EFFECTIVE DATE.—Subsection (a) takes effect as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Act of 1996 (8 U.S.C. 1612)."

Mr. D'AMATO. Mr. President, on behalf of myself, Senator CHAFEE, Senator DEWINE, Senator FEINSTEIN, and Senator SPECTER, I call up this amendment because, notwithstanding the attempt—and I appreciate it—by the Appropriations Committee initially to deal with a very vexing problem, the problem of immigrants and the problem of legal immigrants and the problem really dealing with legal immigrants, most of whom are, a good percentage are disabled and who are elderly who would otherwise be cut off August 22, notwithstanding that they came into the country legally, that they are currently receiving benefits, that if these benefits were to be cut off in some States, they would be faced with little, if any, help.

In other States, the burden would be a tremendous one on some of the local municipalities and the States. This amendment would continue the existing funding of those legal immigrants—let's understand, we are talking about people who came into this country legally; we are talking about people who obeyed the law; we are talking about, for most cases, senior citizens, elderly, and disabled—to continue their SSI benefits.

Mr. President, it seems to me that this is a prudent way in which to handle what could otherwise be a very disastrous problem for 500,000 people, most of whom are elderly, in this country. That is a half-million people. That is a lot of people who would be facing tremendous hardship, many who have no one in a position to be of any kind of assistance. For others, without their SSI payments and cut off from food stamps, their families would be in perilous situations even attempting to give them modest help.

Let me say that I am deeply appreciative of the leadership that has been displayed by the Senate majority leader, the chairman of the Senate Appropriations Committee, and our distinguished colleague from West Virginia, in attempting to deal with this problem in a way that will give us additional time.

Again, we are not talking about people who came into this country illegally, people who are trying to take advantage of the system. We are taking an opportunity to give the Congress of the United States and the President sufficient time to work out a program that will see to it that the system is not abused but, by the same token, see to it that people are not disadvantaged as a result of the significant work of the Congress in bringing about workfare as opposed to welfare.

Let me say what the situation is in terms of New York. In New York, we are talking about 80,000 legal immigrants who now would be facing termination of benefits—80,000. Again, Mr. President, the vast number who are senior citizens, many of them have tremendous language barriers, many of them have been in this country for a number of years, some not long enough to qualify for Social Security benefits, all of them here legally. Mr. President, 70,000 of these people are in the city of New York.

What an incredible impact that would be to the city, to the State, and to other communities. As I look around, I see my colleagues from California, who have the same kind of problem. I see my colleague from Rhode Island. It is a tremendous problem that would be created. That was never our

intent in terms of reforming the welfare system. Ours was to create an opportunity for workfare, not a system that entraps people. Ours says to those who are capable of going out and holding a job or getting into a job training program that you just cannot take advantage of the system. But I do not believe it was one in which we envisioned just cutting off those people who cannot do for themselves. We are a compassionate country. We are a country which is ready and recognizes the need to help those citizens who cannot do for themselves.

So, let me say this. The Social Security Administration estimates that SSI recipients who received notices of possible termination of benefits are made up of—let me just give you an idea who these half a million people are: 72 percent are women; 41 percent are over the age of 75; 18 percent are over the age of 85. Are we going to say to those people, 18 percent over the age of 85, "go out and get a job"? What are we going to do?

Mrs. BOXER. Will the Senator yield on that point for a question?

Mr. D'AMATO. Certainly.

Mrs. BOXER. Mr. President, I thank the Senator from New York for offering this amendment. I say to him, and I am sure Senator FEINSTEIN will amplify this, that this is so crucial to our State, as he has said, and I know the Senator is aware—and I will put this in the form of a question—that in the budget agreement that was reached among all parties, this issue was recognized. What the Senator from New York is doing is carrying over this agreement, that these people need the certainty of assistance because they are very old, they are very frail, they are very disabled, and what the Senator is doing is, in essence, saying that that agreement ought to really apply right now and these people should not be under the threat of a cutoff. So he is restoring SSI to legal immigrants until all the new details are worked; am I correct in that?

Mr. D'AMATO. That is correct. What we are doing is providing the Congress, as well as these people, an additional 6 weeks from August 22. A good number of these people during this period of time will be qualified as citizens, understanding, if you look at the age category of them, many of these people are elderly, there was never an impetus. It is very difficult. They have language barriers, disabilities, problems in communication and transportation. The immigration offices are swamped with those people who are attempting and who are eligible for citizenship.

When you look at this, if close to 20 percent are over 85, we are talking about almost 100,000, and most of them women, who are over the age of 85, who may have disabilities, who may have language problems just trying to qualify them for citizenship. In some cases, they will not have to take the ordinary test. But how do we get them that information? How do we get them there in time? It cannot be done between now and August 22. New York City Mayor Giuliani is engaged in an outreach program to contact many of these elderly immigrants and give them an opportunity to qualify for full citizenship; therefore, they would not have to be concerned with the cut off in benefits.

So for all of those reasons, this additional time will also give us and our colleagues an opportunity—as well as the administration—to examine what the program will be in the fullness of time after October 1.

Mrs. BOXER. Mr. President, I ask the Senator to add me as a cosponsor.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from California, Senator BOXER, be added as an original cosponsor.

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

Mr. D'AMATO. Mr. President, I thank Senator CHAFEE for his support and leadership and, again, the leaders of the Appropriations Committee, Senator STEVENS, and the ranking minority member from West Virginia, Senator BYRD, for their leadership, for their compassion in understanding and finding the resources to make this extension available. Senator BYRD has always demonstrated a great compassion and concern for senior citizens in particular, and they are the ones who would be most victimized if we were not to continue this action. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I rise to support the D'Amato-Chafee resolution. I am very pleased to be a cosponsor. I want to point out that two cities in this Nation are impacted more than any other, and that is the city of Los Angeles and the city of New York. In California alone, there are 310,000 legal immigrants currently receiving SSI benefits. Under the present law, they all go off on August 22, regardless of need.

I want to clear the air somewhat, because the administration proposal, accepted by the Budget Committee, does not cover elderly legal immigrants. In other words, if you are 85 years old and monolingual in another language, you cannot get a job, but come August 22, under the agreement, you would be out on the streets. Either you are homeless or else it is a transfer to the local government to be picked up by the counties' general assistance grant.

This proposal of Senator D'AMATO's essentially takes that August 22 deadline and extends it to October 1, giving us time to work with the administration, work with the Appropriations Committee and try to see if there is not a better solution.

If only disabled are covered, which is currently the case under the proposed bipartisan agreement, this means that only refugees and asylees who have exhausted the 7 years would be eligible for SSI only if they are disabled. This impacts 61,360 people in California; 60 percent of those who are disabled and 40 percent of the elderly would not be affected by this legislation.

So we have a ways to go in reconciling what is really out there in terms of problems of people who are elderly and the proposal that is part of the bipartisan agreement. The D'Amato proposal extends that deadline by 2 months and gives us an opportunity to work this out. I think it is extraordinarily important that that happen.

Additionally, I pay my compliments to the Senator from Rhode Island. Senator CHAFEE and I have a bill which would extend SSI for all of those who are presently covered by SSI, not prospectively, not for newcomers, but for those people already in this country for whom we have certain responsibilities who are unable to have any other source of income to support themselves. Our bill, I think, is the long-term solution that is the most viable.

So I thank Senator D'AMATO—he is also a cosponsor of the Chafee-Feinstein bill—for offering this, and I am very hopeful that a dominant majority of this body will see the wisdom in adopting it.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 145

(Purpose: To rescind JOBS Funds, extend the transition period for aliens receiving SSI funds, and for other purposes)

Mr. D'AMATO. Mr. President, for the purpose of technical adjustment, I ask unanimous consent that the clerk instead report No. 145 in place of amendment No. 166 and that that be the pending amendment.

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

Mr. D'AMATO. Mr. President, so that the RECORD properly reflects the cosponsors, in addition to myself, they are Senator CHAFEE, Senator DEWINE, Senator SPECTER, Senator FEINSTEIN, Senator KOHL, Senator MOYNIHAN, and Senator KENNEDY as well.

The PRESIDING OFFICER. Without objection, amendment No. 166 is withdrawn.

The amendment (No. 166) was withdrawn.

The PRESIDING OFFICER. The clerk will report amendment No. 145.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. CHAFEE, Mr. DEWINE, Mr. SPECTER, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mrs. BOXER, Mr. KOHL and Mr. KENNEDY, proposes an amendment numbered 145.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 44, strike all after line 19, through line 2 on page 45, and insert in lieu thereof the following:

"JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

"Of the funds made available under this heading in Public Law 104–208, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year.

"Section 403(k)(3)(F) of the Social Security Act (as in effect on October 1, 1996) is amended by adding after the ',' the following: 'reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1997 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),'."

On page 46, after line 25, insert the following:

"Public Law 104–208, under the heading titled 'Education For the Disadvantaged' is amended by striking '$1,298,386,000' and inserting '$713,386,000' in lieu thereof."

On page 75, strike all after line 10 through line 22 on page 80, and insert in lieu thereof the following:

"TITLE VI—SUPPLEMENTAL SECURITY INCOME AMENDMENT

"SEC. 601. EXTENSION OF SSI REDETERMINATION PROVISIONS.

"(a) IN GENERAL.—Section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(D) is amended—

"(1) in clause (i)—

"(A) in subclause (I), by striking 'the date which is 1 year after such date of enactment' and inserting in lieu thereof 'September 30, 1997'; and

"(B) in subclause (III), by striking 'the date of the redetermination with respect to such individual' and inserting in lieu thereof 'September 30, 1997'; and

"(b) EFFECTIVE DATE.—Subsection (a) takes effect as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612)."

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I congratulate Senator D'AMATO for his work on this amendment which will mean so much to so many people who he has well described as being the frailest in our society.

I also pay tribute to Senator FEINSTEIN with whom I have worked on a program similar to this for the long-term solution, as she pointed out. It may well be that we will turn to that when we start the new fiscal year.

I also want to salute Senator DEWINE, who is not on the floor at this moment. I hope he will be here soon. But I wanted to pay tribute to him because he has worked very hard on it.

Mr. President, I would like to extend my thanks to the distinguished chairman of the Appropriations Committee, the Senator from Alaska, and the distinguished ranking member of that committee, the Senator from West Virginia, who have agreed to accept this amendment. I am very appreciative of that.

I am speaking on behalf of 3,750 legal immigrants—legal immigrants—in my State who would face the loss of these SSI benefits but for the passage of this legislation, which I hope will be accepted in the House likewise. That group of 3,750 Rhode Island seniors, as the Senator from New York has described, fits in that typical pattern of 18 percent being over 85 and so forth.

Mr. President, this is a good amendment. What it does, it gets us through the remainder of this fiscal year and gives us a little breathing time.

Mr. President, as you know, in the underlying bill there is a block grant of $125 million. This replaces that. I think that is wise because a block grant would cause a lot of problems in its distribution, trying to set up a new system to get the money out. The continuation of the existing system of the SSI benefits is, I believe strongly, the right way to go.

So this is an occasion where I think we can all celebrate a little bit. I was strongly supportive of the welfare reform bill that we passed last year. I believe in it. I think it is working.

At the time when we foresaw the difficulties that were going to come up under this particular group, I supported legislation to take care of them. That did not pass. I believe it was the legislation of the Senator from the State of California. It did not pass. But now we are attacking that problem.

As I mentioned before, I think it is coming out in a very satisfactory way. So I want to thank the Chair. And, again, I do want to point out that Senator DEWINE is deeply interested in this, as is Senator SPECTER. Senator DEWINE may be on the floor a little later. I want to extend my appreciation to his work on this and also to the leadership of both parties in the Senate for permitting this to be accepted.

Thank you very much.

Mr. D'AMATO. Mr. President, I understand that there may be somebody in opposition. But at this point, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Mr. President, let me simply say, I am just going to look at one statistic again and put it in terms of not just saying 18 percent of all of those are over the age of 85. We are talking about 90,000 people, seniors—90,000. Many of them, again, are disabled. Many of them have problems with the language. All of them are here in this country legally. Let us understand that. Let us understand that three-quarters of those people, better than 65,000, are women.

Are we really going to say to grandmothers, grandparents, to the elderly, to the frailest of the frail, "No more will we meet even your minimum needs"? That is not what this country is about. That is certainly not what I intended nor do I think any Members intended when we voted for the reform of the welfare system. I voted for that. I think we did the right thing.

I think we can make this bill a much better bill by not only continuing this program now, but then we will argue, and it will give us an opportunity for those to come forward and have a fuller discourse in the future. But certainly, certainly, we should not terminate it now.

Again, I want to thank the chairman of the Appropriations Committee, Senator STEVENS, and the ranking member, Senator BYRD, for their understanding and their support of this legislative correction. It is a correction. It is one. And there is nothing wrong with saying we can do it better, we erred at this point in time. I did.

Let me tell you, I was concerned that there were many people who were taking advantage of the system. There were those who said and pledged, "Yeah. We'll take care of our elderly, our relatives," and instead of doing that, they gamed the system and put them right into SSI. Well, that is wrong. We should see to it that that does not take place. But for us now to say, with one fell swoop all of them will be disadvantaged who are presently receiving, that is something that I would not in good conscience support.

I yield the floor.

Mr. DEWINE. Mr. President, I am pleased to join with my colleagues from New York and Rhode Island, Senator D'AMATO and Senator CHAFEE, in offering this amendment to extend Supplemental Security Income [SSI] coverage to disabled, legal immigrants until the end of the fiscal year. This amendment is consistent with the recent agreement between the congressional leadership and President Clinton to allow disabled, legal immigrants to continue receiving SSI and Medicaid benefits.

First, let me commend my friends from New York and Rhode Island, Senator D'AMATO and Senator CHAFEE, for their extraordinary efforts on behalf of legal immigrants. It is safe to say that the bipartisan agreement to restore SSI and Medicaid benefits to disabled, legal immigrants would not have been made without their leadership.

Plain and simple, this is an issue of fairness—fairness to those who played by the rules to become legal immigrants, only to see those rules changed to their detriment.

While the budget agreement provides hope to legal immigrants, a temporary measure is needed to protect those immigrants who would stand to benefit

from the budget agreement. That's the purpose of the amendment we are offering today. As my colleagues know, the 1996 welfare law bans legal immigrants from receiving SSI benefits beginning August 22, 1997—1 year after the day the law was signed. This 1-year transition period was designed to give legal immigrants time to obtain citizenship without losing eligibility, and to provide State and local governments time to adjust to increased demand for general assistance.

The Social Security Administration estimates that roughly 525,000 legal immigrants currently receiving SSI could lose benefits under current law. Of that number, roughly 3,000 are from Ohio—and more than half of those immigrants, roughly 1,700 reside in Cuyahoga County. Many of these immigrants will seek and obtain citizenship and thus, can still receive SSI. However, many disabled immigrants currently receiving Federal support may not be able to become citizens. It is this population that stands to lose the most if current law is not changed.

The Jewish Community Federation of Cleveland brought to my attention several families that would be affected if the law is not changed. Lev and Ada Vaynshtock, ages 64 and 60 respectively, came to this country from Moldova in 1991. They reside in Cleveland.

Ada has passed her citizenship exam and is eagerly waiting to become a U.S. citizen. Lev's memory is getting worse and worse after open-heart surgery, and may never become a citizen. Both currently are eligible for SSI. Ada certainly will be able to retain her SSI eligibility when she gains citizenship, but Lev stands to lose this eligibility. If he outlives Ada, he will have no benefits at all—unless we act to change the law.

They are just one of many elderly Russian families—families that because of mental or physical disability, stand to lose their SSI benefits later this summer. It is for them, and for countless others, that compelled a bipartisan group of Senators to seek changes in the law to protect elderly people.

Let me emphasize to my colleagues that our efforts on behalf of disabled legal immigrants does not alter the key policy changes made in last year's welfare and immigration reform bills. Our efforts do not alter the basic policy change made last year that sponsors of legal immigrants need to take more financial responsibility for legal immigrants. Newly arrived immigrants still will have to abide by the 1996 welfare and immigration laws.

Again, we're here to help those already here, those already disabled immigrants who played by the rules. Although Congress and the President have made a commitment to help this population, it may not be until the beginning of the fiscal year before that relief is provided. We cannot hold disabled, legal immigrants hostage to the legislative process, especially when they stand to lose benefits in a few short months.

Again, our efforts have been bipartisan. I want to commend the chairman of the Appropriations Committee and the chairman of the Finance Committee, Senator STEVENS and Senator ROTH, and of course our majority leader, Senator LOTT, for working to place a temporary measure in the existing bill. The amendment we offer today simply expands that effort, to ensure that all immigrants who stand to retain their benefits because of the budget agreement are not denied benefits while the details of this agreement are worked out. What this amendment offers is certainty—the certainty that these immigrants will continue to receive benefits for an additional 6 weeks.

In short, the budget agreement reflects our long-term commitment to fairness. By passing this amendment, we can take a short-term first step to realize that long-term goal.

Mr. MOYNIHAN. Mr. President, I rise as an original cosponsor of the amendment offered by my colleague from New York to extend Supplemental Security Income [SSI] benefits to elderly and disabled legal immigrants through the end of September. Under last year's welfare legislation, which I opposed, these individuals are to lose their SSI benefits in August. The budget agreement recently reached would restore SSI benefits to many of these individuals. I support that effort, although more should be done. This amendment will ensure that there is no interruption of SSI benefits while legislation necessary to implement the budget agreement is considered.

It is a welcome measure of compassion where there has been too little of late.

Mr. KOHL. Mr. President, I rise today as an original cosponsor of the Chafee-D'Amato amendment regarding SSI benefits to legal immigrants and refugees. I am pleased to support this important first step to correct a significant mistake of last year's welfare bill.

As you know, this amendment would extend the eligibility of disabled and elderly legal immigrants to the Supplemental Security Income Program. These people, including approximately 5,000 in my home State of Wisconsin, were scheduled to lose their SSI benefits in August of this year. As my colleagues from California, New York, Rhode Island, and elsewhere have explained, many others would have been similarly affected all across the country.

While many legal immigrants will become citizens by the August deadline, without this amendment, State officials estimate that approximately 3,000 elderly and disabled legal immigrants living in various Wisconsin communities would have been cut off from their only source of support. These are people who cannot work and who would not be able to live or take care of their families without outside help. If the Federal Government abandoned them, their most basic needs—shelter, food, medical help—and the accompanying costs, would have fallen on the shoulders of, and quite potentially overwhelmed, State and local resources.

Wisconsin has already decided to continue medical assistance to SSI recipients. And the recently hatched budget deal contains even more comprehensive remedies for the next fiscal year—two encouraging bits of news. Nonetheless, the extension of benefits from August to October will provide crucial help until those long-term remedies take effect.

Mr. President, I supported the new welfare law. Policy reforms to move people from welfare to work were laudable and long overdue. Yet throughout the welfare debate I also supported numerous attempts, all of which failed, to soften the bill's restrictions on benefits to legal immigrants and refugees.

Simply put, the welfare bill went too far. It was too harsh on legal immigrants who come to this country with every intention of working hard and contributing to our economy and cultural melting pot. It also was too harsh on refugees and asylees who come to this country to escape persecution in their native lands. To this latter group, the United States made and continues to make a unique commitment of assistance and guidance to help them rise above adversity and build a new life for themselves and their families.

Wisconsin has been enriched by many different ethnic groups throughout its history. That said, I would like to take this occasion to discuss a population that has been hit particularly hard by the welfare changes—the Hmong and other highland peoples—who came to Wisconsin and other parts of the country as refugees from Southeast Asia. Since coming, they have faced the challenges of integrating into American society. Many arrived in this country illiterate because they did not have a written language at home and have had a difficult time fulfilling the educational requirements of the citizenship application. In August, many of the Hmong would have lost the SSI benefits that they have relied upon to cope with these challenges.

Like most legal immigrants before and since, the Hmong and their children have strengthened our communities. But some of my colleagues may not know of the Hmong's invaluable contribution to the United States before ever setting foot in Wisconsin or anywhere else on American soil.

Mr. President, Americans owe a debt of gratitude to the Hmong. Most of

them fled their native country at the end of the Vietnam war, fearing retribution for having fought for the United States alongside American soldiers and helping us through what was a very difficult time in our history.

While no disabled or elderly legal immigrants should be left without help, I am particularly pleased to cosponsor the Chafee-D'Amato amendment on behalf of the Hmong. It would be unconscionable to abandon the Hmong in their time of need. They put their lives on the line in defense of all that Americans hold dear—our freedom, our prosperity, and our way of life. Today, Congress has taken a very small step toward repaying their priceless service to all Americans.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator from California sought recognition on this amendment?

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Chair.

I would just like to add to my earlier comments with some of the specific numbers from each of the big States of people that would not be covered by the bipartisan budget agreement.

These are elderly people.

In California it is 163,900. In Florida it would be 44,310. In Illinois 13,360; in Massachusetts 13,410; in New York 65,340; and in Texas, 32,640. These are people who are above the age of 65.

It is my understanding that the administration, with Members in the other House, may have reached an agreement whereby they would agree to try to certify some of these people as disabled. But, nonetheless, these are the people, at least in the statistics of the Social Security Administration, who would be dropped off come August 22 for sure right now.

I think this is living testimony, in terms of numbers of people, to the argument that Senator D'AMATO, Senator CHAFEE, and I are making that: Let us extend this by 2 months and see what we can do to effect a reasonable system where people will not become homeless or a major transfer onto county general assistance rolls.

I thank the Chair and yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I hope all Members understand, however, we are entirely in agreement with statements made so far concerning these legal immigrants who will be covered by this procedure. Hopefully, pursuant to the budget agreement, we will continue a policy of caring for people who are here legally now.

But I hope everyone, including the Immigration Service, is on notice it applies to those who are here now. In the future, I hope that we will enforce the commitment made by those who sponsor legal immigrants to maintain those people that they sponsor in the event they become indigent and cannot support themselves. That is the commitment that we must see carried forward once again in our basic law of protecting immigration.

Again, it is my desire at this time, Mr. President, to ask the Senate to set aside the D'Amato amendment. This amendment and the Bumpers amendment will be voted upon sometime before 1 o'clock today. That is our hope. There may be further proceedings with regard to the D'Amato amendment. I do not want to jeopardize them. But I do ask unanimous consent that we temporarily set aside the D'Amato amendment at this time so we may proceed with the Bumpers amendment.

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

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Reid amendment be temporarily set aside while I offer an amendment.

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

AMENDMENT NO. 64

(Purpose: To strike section 310, relating to R.S. 2477 rights-of-way)

Mr. BUMPERS. Mr. President, I call up amendment No. 64.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 64.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 50, strike lines 1 through 11.

Mr. STEVENS. Will the Senator yield at this point?

Mr. BUMPERS. Yes.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Anne McInerney be given privileges of the floor during the duration of this bill.

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

Mr. BUMPERS. Mr. President, for Members of this body who have not dealt with this issue on the Energy and Natural Resources Committee, this is a slightly complex amendment. I am going to simplify it as best I can. We have had several hearings in the Energy Committee on it, but it deals with an issue that sounds so bizarre you would not believe it was actually on the statute books of this country.

In 1866, Congress passed a bill which has become popularly known as R.S. 2477, Revised Statute 2477. What that law did, as part of the 1866 mining law, was to validate public highways built across unreserved public lands.

That does not mean much, so here it is. The United States owns 350 million acres of land in the lower 48 States. Since 1866, we have set aside millions and millions of acres in wilderness areas, national parks, monuments, all kind of things since 1866. But bear in mind, the R.S. 2477 statute said "unreserved lands," so that meant all of the public lands the United States owns that have not been set aside for another purpose. The effect of that, of course, was, from 1866 until 1976 when it was repealed, anybody who claimed a footpath, almost a cow trail, a sled trail, hiking trails, almost anything would qualify as a highway under the language in this bill.

A lot of highways were built under these R.S. 2477 rights-of-way between 1866 and 1976, and we are not contesting a single one of those.

What we are saying is, the provision put in this bill by the Senator from Alaska [Mr. STEVENS] simply says we are going to let State law determine what is and is not a public, valid right-of-way.

This, admittedly, is primarily an Alaska, Utah, and probably Idaho issue. It does not affect my State. There are some of the Western States that have these rights-of-way. But in any event, here is what the law said as we passed it in 1866. "[T]he right-of-way for the construction of public highways across public lands, not reserved for public uses, is hereby granted."

As I say, that includes dogsled trails, that includes footpaths, it includes any kind of a path. And there are literally thousands and thousands of them that have been claimed.

Mr. President, I will come back to how the language in this bill will work in just a moment. But listen to this. The State of Alaska has passed a law making every section line in Alaska a right-of-way and subject to having a highway built on it. I am reluctant to say this, but if you build on just half the rights-of-way that Alaska is claiming, you would not be able to travel. There would be too many roads to get around.

In any event, I want to make it crystal clear that this amendment has nothing to do with existing highways that have been built under the 1866 law.

Mr. President, there have never been regulations crafted to deal with this issue. In the 1930's there was sort of a half-hearted regulation, but not really anything.

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. BUMPERS. 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. BUMPERS. Now, Mr. President, I want to make another point crystal clear, and it is this: When I said a moment ago that the effect of this amendment would allow State law to determine what constitutes a valid existing right-of-way, it would take away the Secretary of the Interior's ability to determine what was a highway. In short, all of these thousands and thousands of so-called R.S. 2477 right-of-way claims all over the West would become valid.

Now, bear in mind, there is another facet to this, and that is the Secretary in January of this year set out a policy which effectively repealed a policy established by Donald Hodel when he was Secretary of Interior in 1988. The Hodel policy—it is not a regulation; we have never had a rule or regulation, it was simply a policy statement—was that just about anything could qualify as a highway.

Now, whether the Hodel policy stated that the States shall have exclusive rights to determine what a right-of-way is, I do not really know right now, but I can tell you, if section 310 passes, State law will determine what is going to happen to thousands of rights-of-way in this country that cross national parks, wilderness areas, monuments, and any other land in the West that was set aside after these claimed rights-of-way existed.

Let me give an example. Assume that there are 20 rights-of-way that the State of California would claim cross Yosemite National Park. They claim those rights-of-way were established before Yosemite became a national park. It was unreserved Federal land before, and these rights-of-way were across that Federal land. Later on, we establish Yosemite National Park. Under this section, if the Stevens language stays in this bill, which has absolutely no business being in this bill, but if my amendment is defeated, that means that California law will dictate what highways can be built across Yosemite National Park—not the National Park Service, not the Federal Government, but the State of California.

Think of all the thousands of rights-of-way that could be claimed in Alaska. Mr. President, just for openers, here are some of the claims that have been filed. These are not all the claims that Alaska, Utah, Idaho, and other States have as to what constitutes a valid right-of-way. These are the ones that have actually been filed with the Secretary of Interior and requested to be declared an existing valid right-of-way on which they can build a four-lane superhighway, if they desire. Alaska has 256 claims on file, but they have God knows how many—thousands that they could claim. Idaho has 2,026 on file, and Utah has 6,173 claims filed in the Secretary's office. Those are a lot of potential highways across Federal lands, and the Federal Government could not stop them no matter what kind of highway they wanted to build.

When I started off telling you how bizarre this was, just think about that. When we held our first hearing in the Energy Committee on what to do about these so-called R.S. 2477 rights-of-way, I may have been dense, but it took me a long time to understand that we were really talking about something serious. I never heard of anything so bizarre in my life. Yet, the chairman of the Appropriations Committee—we all represent our States, and I am not holding him guilty of anything. I am just saying the rest of us do not have to follow suit. He is chairman of the committee and he puts this in a supplemental appropriations bill designed to aid areas hurt by natural disasters, including help for the people of Arkansas. There is $6.5 million for debris removal in streams as a result of a tornado on March 1 in Arkansas. There is $3.5 million in this bill to allow an all-black community just outside Little Rock to tie into the Little Rock sewer system. Virtually the entire community of College Station was wiped out, a community of less than 500 people, and they cannot build new homes or borrow money to build new homes until they get on the sewer system. And the chairman, very graciously, and the committee, very graciously, accepted my amendment to put $3.5 million in there to accomplish that. How many nights did we look at the Dakotas and Minnesota, which was a veritable lake?

Mr. President, do you know the name of the bill we are considering? It is the emergency supplemental appropriations bill. The R.S. 2477 issue is no emergency. The language I am trying to strike was put in there and it had nothing to do with any kind of disaster or emergency. It was put in there to accommodate primarily the States of Alaska, Utah, and Idaho. I have nothing against any of those States, but I tell you what I do have, I do have a strong feeling about protecting the citizens of this country and the Federal lands which they all own. Some of it is in my State—admittedly, not as much as in Alaska and some Western States—but every single Member of the U.S. Senate has a solemn obligation, occasionally, to stand on their hind legs and say no to such things as this.

Every Senator has or will have a letter on his desk from Secretary Babbitt saying he will strongly urge the President to veto this $8 billion bill if this provision is left in it. Why wouldn't he? My point is, why are we, U.S. Senators, holding the people of North Dakota, South Dakota, and Minnesota hostage to an amendment that should not be on this bill? It is not an emergency. It is not even an appropriations measure.

Mr. President, I get terribly exercised about things like this because I think I have a solemn duty to bring this to the attention of the Senate. In January of this year, Secretary Babbitt, not popular with Western Senators—but that has nothing to do with this amendment. What it does have to do with this amendment is whether or not we are going to allow every single State who can identify a pig trail that was used by human occupants any time between 1866 and 1976, across lands that have subsequently been made national parks, monuments, and wilderness areas, whether we are going to allow those States to determine that those trails are now highways and then build highways on them with no input from the Secretary.

So Secretary Babbitt, in January of this year, issued a policy—not a rule, not a regulation, but a policy. Here is what his policy said. It defines a highway to be "a thoroughfare used by the public for the passage of vehicles carrying people or goods." Now, Secretary Babbitt's policy also allows for the abdication of State law to the extent consistent with Federal law, which, of course, makes Federal law dominant, as it should be.

Nobody is trying to punish Alaska. Nobody is trying to punish Idaho. Nobody is trying to punish Utah. What we are trying to do is say these sacred parks and monuments that we have developed over the years—Yellowstone, Yosemite, Bryce Canyon, Saguaro, you name it—you cannot let the States just walk in and willy-nilly start building highways across those places. If you do not vote for my amendment, that is precisely what you are voting for.

Mr. President, I hope the Senate will pay attention to this issue—as I say, this is an arcane issue. Most people in this country do not have a clue that a law such as R.S. 2477 ever existed. I want to get help to the people of my State who have been devastated by tornadoes. I want to get help to people in California who have suffered from floods, to the Dakotas and Minnesota, one of the most awesome things we have ever watched on television. This bill is designed to help them. That is what a compassionate, caring government does.

One of the reasons I voted against the constitutional amendment to balance the budget is because it would have prohibited the Congress from appropriating money to help people who had suffered that kind of disaster because it would unbalance the budget. You could not do it without a 60 percent vote of both Houses, and if you did not get it, they just suffered. That is what would happen a lot of times.

I am not going to belabor this. I have made the point as well as I can. I see

the junior Senator from Alaska on the floor. I yield the floor.

Mr. MURKOWSKI. Mr. President, I appreciate the remarks of my friend from Arkansas. But the Senator from Arkansas says that this is not an emergency, and, as a consequence, this particular provision that is in the appropriations supplemental should not be here. Well, he is absolutely wrong because this is an emergency. It's a raid on the Western States of this Nation. The reason it is a raid, Mr. President, is because we are going to change the rules all of a sudden. Why are we changing the rules? Because the Secretary of the Interior doesn't want the States to continue to have the rights that we have had for 130 years. We have had a law for 130 years, a law that ensures access across public lands, which specifically addresses that there was some kind of a highway, some kind of an access in existence prior to October 21, 1976.

Now, the Secretary of the Interior proposes to take this authority away from the States and give it to the Federal Government. That is why it is an emergency. We are fighting for survival. Here is a picture of my State of Alaska. I hope the Senator will take a good look at it, because here is Alaska today, Mr. President—a State with 33,000 miles of coastline. You can see our highway system here. We had one new highway built in the last 20 years, the Dalton Trail, which parallels the pipeline. This is an area one-fifth the size of the United States, Mr. President.

If the motion to strike prevails by the Senator from Arkansas, our traditional access routes will be eliminated. Let me show you a map, Mr. President, of the State of Arkansas. There is the highway system in Arkansas, Mr. President; it's a fully developed State. It has been a State of the Union for over 100 years. My State has been in existence for 39 years. Here is a map of Arkansas today—roads all over the place. They are necessary for the economy of the area. I don't take issue with the road system. These roads came about in the development over a long period of time in the State, as we would anticipate. So there we have the basic issue.

The Senator from Arkansas says that virtually any access across public land would be provided if indeed this portion that he wants to strike remains in the legislation. Well, let me tell you, as chairman of the committee with jurisdiction over R.S. 2477, I'll just say that the rights-of-way are the future vitality of our State.

Despite all the rhetoric that has been made about this provision, it simply amounts to a tightening of a permanent moratorium placed on the Federal Government last year. It is that simple. What we want to do is keep in place the law as it has been for 130 years, keep the departmental regulations as they have been codified since 1932, I believe, and again in 1974.

Now, the only thing that has changed in this debate is the level to which the administration will go to provide scare tactics to influence this process. Let me state here that I find some of the rhetoric coming out of the Interior Department concerning this provision absolutely reprehensible.

I have a copy of a letter the Secretary of Interior sent to the chairman of the Appropriations Committee last week. At best, this letter shows an alarming ignorance of the history, topography, and the economy of the Western States. At worst, it shows the level of deceit that this administration is evidently willing to go to in order to mislead the American public about this issue.

Now, in this letter there is a claim that a provision in this bill will create some 984,000 miles of new highways in Alaska, based on a 1923 Alaska law creating section-line rights-of-way. That is a fallacy, Mr. President. This is in a State—my State—which currently has just over 13,000 total miles of roads, along with the marine highway system. Alaska has a population of about 600,000, a budget deficit, and the last road built in Alaska cost more than $6 million per mile, down from Whitehorse to Skagway, the U.S. portion.

If you take the miles the Secretary is talking about in his scare letter, you would have to spend just roughly $6 quadrillion to build these proposed roads in our State—more money than even the current administration could even dream up in taxes.

The Secretary contends that this is going to happen because the section-line law exists in Alaska. Here are some facts about that. The State has had a section-line law on the books since 1923. That is the one correct statement in Secretary Babbitt's letter. The State has had the ability to assert section lines since 1923. There are no current rights-of-way based on section lines in Alaska. The State has never filed a section-line right-of-way. We have the right, but we also have the self-discipline. According to the Governor's office during last year's hearing, the State has no intention to ever file a section-line right-of-way. The fact is, section lines have little or no practical application as transportation corridors in Alaska due to the difficulty of the terrain.

Second, the Secretary also states:

> My efforts over the past several years have been directed to establish a clear, certain, and fair process to bring these claims to conclusion . . . the public will be poorly served by Congressional action that has the effect of rescinding the Department's current orderly manner of proceeding to deal with the right-of-way claims.

I find that statement interesting, considering what the Secretary wrote us in 1993, which was:

> I have instructed the BLM to defer any processing of R.S. 2477 assertions except in cases where there is a demonstrated, compelling, and immediate need to make such determinations.

So, in fact, the administration's orderly process of dealing with these claims is to take no action whatsoever.

Well, Mr. President, the fact is, if an R.S. 2477 was not in existence on October 21, 1976, it will not and cannot, by definition, be created now. This is what the statement of my friend from Arkansas suggests will lead to simply an open and arbitrary selection of areas across public land. He said, "Just about anything, anybody, any excuse, will get you access." It will not, Mr. President. It is misleading and it is inappropriate to suggest that. You must have had in existence on October 21, 1976, evidence of utilization of that area as a trail, as a highway, some kind of route.

Let me show you what we have here, Mr. President. This is a map made in 1917, before Alaska became a State. What it shows here is rather interesting, because this is what this issue today is all about. It is about access, early access. The two definitive identifiers in red here are winter stage lines and U.S. Government winter U.S. trails to Fairbanks. We didn't have a highway system. These two large red routings were trails, winter trails. In the summertime, they were used as wagon trails. That was access into the interior. Today, these two represent highways. These greens are the R.S. 2477's that provide access routes across public lands, so that we can get from Fairbanks out to McGrath, we can get from Nome out to the gold fields, across public lands.

Let me show you why it is so important in Alaska relative to having the assurance of access across public lands. This is Alaska. Every color you see is a Federal withdrawal, Mr. President. Take a look at it. Federal withdrawal. Now, how in the world are we going to get from the southern part of the State to the northern part of the State through all these colors, because the only area that the State controls are the white areas? We have to have access. This law gives us that access. That is why this is an emergency. It is an emergency because the Secretary wants to take that authority away. We have had the authority for 130 years.

Look at what we have done with it, relative to highways in Alaska. We haven't wandered all over the place. We have 13,000 miles of roads. But we have to have access, and that is why it is so vital that this matter be addressed now. We have to have access down from Prudhoe Bay. We have a little, tiny corridor, 3 miles wide. This is all Federal withdrawal. How are we going to get east and west if we don't have this provision? We simply can't get there from here. So while it doesn't mean

much from the standpoint of the constituents in Arkansas, who have a State that is fully developed with a road system that looks like this, we have a situation where it is the lifeblood and the future of our State to have the assurance that we are going to have access, because the Federal Government basically owns our State.

The Secretary wants to take that authority away from us. The senior Senator from Alaska and I and the Senators from Utah are all sensitive to the realities associated with this. This is our lifeblood. We have to have it. It is an emergency. It is necessary now. The administration and the Secretary want to take the authority away from the States and give it to the Federal Government. We all know what that means, Mr. President. That means disaster.

The fact is, again, if an R.S. 2477 was not in existence on October 21, 1976, it will not and cannot, by definition, be created now. So when we look at those old maps of Alaska, we have to go back and ascertain and prove that we have had a trail, we have had a sled dog trail, we have had a regular route of access. If we can prove that, then we have a right to public access across the land. That is what this issue is all about. It is a legitimate States rights issue. The only thing is, most of the States aren't affected anymore. But some of the Western States are, and it is our lifeblood.

The problem, of course, is the prevailing attitude of the Secretary of the Interior, who basically controls public land in our State—his particular attitude toward allowing us—which we can do under current law—to get across those public areas. But that is going to be taken away. And as a consequence of that, Mr. President, we are at the absolute mercy of the Secretary of the Interior if the motion to strike by my friend from Arkansas prevails.

I am not going to speak about what happened in Utah last fall. The Senators from Utah are here to state that. It is a perfect example of what happens when a small cadre of administrative officials take it upon themselves to decide how America's public lands should be used. I have worked with my friend from Arkansas for a long time. We have been able to work on many issues that we agree upon. But during that time, we have had different approaches to some issues. In 1995, a number of Western Senators, upset about the Department of the Interior's proposed regulations on R.S. 2477, sought to place the language in the proposed highway bill overturning the effect of the proposed regulations.

Many of my colleagues will remember that the final passage of that bill was delayed until late in the evening until we could resolve the issue during the day. The Senator from Arkansas and I met to discuss the issue. We didn't come out with any finality about how to solve the R.S. 2477 debate. But we did agree for the time being placing a moratorium on the Department from issuing any regulations. That made sense.

So in the 1995 national highway bill there appeared a 1-year moratorium on the department from issuing any rules or regulations on the issue. For the most part, this held the status quo, as it has been for the past, as I said, 130 years in terms of R.S. 2477 right-of-way.

I, along with a number of Western Senators, introduced Senate bill 1425 last Congress to set out an orderly process by which people can submit their right-of-way claims to the department to seek formal recognition. My friend from Arkansas opposed that, and in the end we agreed upon compromise legislation that passed out of the committee. The compromise legislation placed a permanent moratorium on the Government by stating, "No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 shall take effect unless expressly authorized by an act of Congress subsequent to the date of enactment of this act."

It is this language that was placed in last year's Omnibus Appropriations Act, and is law today. We agreed to only prevent final rules and regulations in the hope that the Department would work on developing a more reasonable recognition process that could be submitted to Congress for approval. Unfortunately, it has been about 8 months now since that legislation passed, and there is no indication that the Secretary has any intention of submitting regulations. Instead, what the Secretary has decided now to do is to shred the longstanding departmental policy regarding R.S. 2477 regulations and replace it with his own. That is why this is an emergency now. It is the lifeblood of the Western States who are still developing and need access, and need the assurance that we will be able to cross public land as long as we are able to prove that we have traditionally used that access route prior to 1976—a wagon trail, a snow machine trail, a dog sled trail. And it doesn't mean much in New York. It doesn't mean much in Arkansas. But in Alaska that is how we can get there from here. We simply have to have that assurance.

The real difference between the provision in the bill before Congress today and the permanent moratorium passed last year is that there is less likelihood that the administration will be able to find a way to skirt around congressional intent with this provision.

Mr. President, in my State these were coveted promises that we were advised would be available to us when we accepted statehood—that we would have the opportunity to access across public land based on traditional utilization, trails, rights, and so forth.

To make the statement that almost anywhere indiscriminately one could claim a route across public land, or parks, or recreation areas is absolutely absurd. The only areas, again, that have any justification for consideration under R.S. 2477 are the historical areas of use prior to 1976 across unreserved public lands.

So, Mr. President, as we conclude this debate, I encourage my colleagues to dismiss the rhetoric suggested by my friend from Arkansas who is, obviously, carrying the weight of the Secretary of the Interior. But when he makes statements that just about anybody or any excuse is justifiable in coming across public land is unrealistic. When he suggests that this is no emergency and should not be on the appropriations supplemental, he is wrong because it is an emergency. They are going to take this away from us by administrative fiat. That is the bottom line.

So here we are today, Mr. President, responsibly; 13,000 miles of road, an area one-fifth the size of the United States. This action by the Secretary of the Interior would eliminate the right that we have as a State, and the commitments that we had coming into the Union, to have the assurance that we would have continued access across public land.

So I encourage my colleagues on this vote to recognize the significance of what this means to Western States. This was a promise made by the Federal Government—a commitment that they are proposing to take away. It is unrealistic. It is unjust.

This belongs in here because we need the continued assurance that we will have an opportunity, and in an orderly manner, to pursue, if you will, access that was guaranteed when Alaska became a State and when other Western States came into the Union.

I yield to the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague from Alaska for the excellent remarks he has made. He has summarized this as well as anyone could. He is an expert in this area.

And I compliment my colleague from Utah for the work he is doing in this area. He is a great leader in this area. I personally appreciate the leadership that he has provided. He will show through descriptive evidence some of the problems that we have.

Let me just say this: I also want to thank Senator STEVENS, the senior Senator from Alaska. Both he and Senator MURKOWSKI have provided our colleagues with a good overview of where the situation now stands, why the language in the supplemental appropriations bill is necessary, and why Senators should oppose the amendment of

our good friend and colleague, Senator BUMPERS.

I want to commend Senators MURKOWSKI and STEVENS for their leadership on this matter. They know and understand the issue better than anyone else in this body. When it comes to preserving rights-of-way over public lands for State and local governments, there are no better advocates than the two of them, and certainly the senior Senator from Alaska, who himself served in the Interior Department. I am pleased to join with them today, and I thank them on behalf of the citizens of my State for leading this effort.

For several years now the Department of Interior and the U.S. Congress have been at odds over that Department's effort regarding vested property rights essential to states and local governments throughout the west. On at least three occasions, Congress has blocked promulgation of Interior Department regulations intended to regulate retroactively the terms and conditions of the establishment of certain highway rights-of-way vested between the middle of the last century and 1976.

As Senator MURKOWSKI indicated, the Department of Interior, frustrated by Congress, is now attempting to do indirectly that which it cannot do directly. The Department is attempting to implement the blocked regulations under the guise of a new policy guidance issued on January 22 of this year. This guidance promotes a concept of Federal law which preempts State law, in spite of the fact that Federal courts have found State property laws applicable to issues such as vesting and scope of the right-of-way as a matter of Federal law.

What is at stake here for those of us in the West is the preservation of what amounts to the primary transportation system and infrastructure of many rural cities and towns. The rights-of-way in question are found in the form of dirt roads, cart paths, small log bridges over streams or ravines, and other thoroughfares and ways whose development and use was originally authorized in 1866 during the homesteading activities that led to the establishment of western communities. They have been created over time and by necessity. In many cases, these roads are the only routes to farms and ranches; they provide necessary access for school buses, emergency vehicles, and mail delivery. These highways—and we are obviously not using the term "highway" in the modern sense—traverse Federal lands, which in Utah comprises nearly 70 percent of Utah's total acreage, and they have been an integral part of the rural American landscape for over a hundred years. Congress created these rights-of-way in 1866; Secretary Babbitt is now attempting to eliminate, if not devalue, them in 1997.

Let me set forth for my colleagues, in as brief a form as possible, the black letter principles applicable to this issue and why the disposition of this matter is so critical to those of us representing public lands States.

As has been stated, Revised Statutes 2477 states, in its entirety:

> SEC. 8. And be it further enacted, That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted. (§8 of the Act of July 26, 1866, 14 Stat. 253, later codified at 43 U.S.C. §932, repealed October 21, 1976.)

In 1976, Congress adopted the Federal Land Policy and Management Act of 1976 (FLPMA) that repealed these 26 words known as R.S. 2477. At the same time, Congress included language protecting these valid existing rights, thus making the actions of the Department of Interior after passage of FLPMA subject to those rights. FLPMA explicitly states this:

> Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this act * * * All actions by the Secretary concerned under this Act shall be subject to valid existing rights. (FLPMA §§701 (a) and (h), 43 U.S.C. §1701 notes (a) and (h).)

From 1938 until the repeal of R.S. 2477 in 1976 by FLPMA, regulations published by the Department of Interior made it clear that the executive branch had no role to play in determining or regulating the validity or scope of R.S. 2477 rights-of-way. The regulations explicitly stated that:

> No application should be filed under R.S. 2477, as *no action on the part of the Government is necessary*. 43 C.F.R. §2822.1–1 (1972, emphasis added).

They further provided that:

> Grants of rights-of-way referred to in the preceding section become effective upon the construction or establishment of highways, in accordance with the State laws, over public lands, not reserved for public uses. 43 C.F.R. §2822.2–1 (1972).

In other words, the grant of a right-of-way was a unilateral offer that vested automatically upon an act of acceptance. A published Interior Department decision said essentially the same thing as early as 1938:

> This grant [R.S. 2477] becomes effective upon the construction or establishing of highways, in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under this act, as no action on the part of the Federal Government is necessary." (56 I.D. 533 (May 28, 1938).)

The current published Interior regulations state that if administration of any pre-existing right-of-way under regulations promulgated pursuant to FLPMA would diminish or reduce any rights "conferred by the grant or the statute under which it was issued, * * * the provisions of the grant of the then existing statute shall apply." This language was explained in the Department's final rulemaking as follows:

> In carrying out the Department's management responsibilities, the authorized officer will be careful to avoid any action that will diminish or reduce the rights conferred under a right-of-way grant issued prior to October 21, 1976.

FLPMA also provides:

> Nothing in this title [43 U.S.C. §§1761 et seq.] shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted or permitted. However, with the *consent* of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this title. (43 U.S.C. §1769 (emphasis added).)

These explicit provisions make it clear that the local and the State governments that hold R.S. 2477 rights-of-way have always been entitled to exercise them in accordance with their duly constituted authority and in accordance with the applicable provisions of State law without interference from the Federal Government. No action by Congress would allow any interference by Federal agencies with the exercise of these rights in accordance with State law. The current Department of Interior regulations merely confirm Congress' intent that the agencies honor these vested property rights.

Past efforts to define any of the key words in the original R.S. 2477 statute and to determine their original intent have created many different and varied opinions. Words such as "construction" and "highway" have been the subject of many analyses by lawyers and other experts on public land issues. Even Secretary Babbitt in his policy guidance of January 22 provides a definition of a "highway" as it pertains to R.S. 2477 that, in my opinion, is inconsistent with legal precedents. For example, Federal courts have honored the common law definition of "highways," which basically requires only that the route be open to the public to travel at will. Here are just a few of the statements the courts have made which elucidate this point:

> The act of Congress [43 U.S.C. 932—then R.S. 2477] does not make any distinction as to the methods recognized by law for the establishment of a highway. It is an unequivocal grant of right of way for highways over public lands, without any limitation as to the method for their establishment, and hence a highway may be established across or upon such public lands in any of the ways recognized by the law of the State in which such lands are located. Any other *conclusion would occasion serious public inconvenience. (United States* v. *9.947.71 Acres of Land*, 220 F. Supp. 328 (D. Nev. 1963), quoting *Smith* v. *Mitchell* (1899) 21 Wash. 536, 58 P. 667, at 668.)

> The parties [including the Department of Interior of the United States] are in agreement that the right of way statute [R.S. 2477] is applied by reference to state law to determine when the offer of grant was accepted by the construction of highways.

In Colorado, and in Utah, the term "highways" includes footpaths.

Highways under 43 U.S.C. 932 can also be roads formed by the passage of wagons, etc., over the natural soil.

In Colorado, mere use is sufficient: "It is not required that 'work' shall be

done on such a road, or that public authorities shall take action in the premises. Use is the requisite element, and it may be by any who have occasion to travel over public lands, and if the use be by only one, still it suffices."

The Secretary's new policy states that "a highway is a thoroughfare * * * for the passage of vehicles carrying people or goods from place to place." This policy blatantly ignores the history of legal decisions in this area by insisting that a R.S. 2477 right-of-way must provide for the passage of a vehicle. How did the Secretary arrive at this definition? By what authority can he overlook decades of legal opinions and insert his own philosophy or interpretation of the original statute to create this critical definition? There can be no solid foundation upon which he takes this leap of interpretation, except his own desire to rewrite these opinions to say or mean something different. The decisions stand for themselves. This body cannot allow the Secretary's new policy guidance to go unchallenged.

Let me underscore the importance of this issue by stating several critical facts.

First, it is clear from the record that the Department of Interior understood that FLPMA did not grant authority to the Bureau of Land Management [BLM] to diminish any prior valid existing rights. It is also clear that many counties in western States have been maintaining the transportation infrastructure across Federal lands for many decades without interference from the Federal land managing agencies, particularly the BLM, according to legal and regulatory precedents.

However, current actions by Interior and the Department of Justice contradict these express provisions of FLPMA. For example, the Secretary's new policy guidance of last January states that the BLM should not process R.S. 2477 assertions in the absence of a demonstrated, compelling, and immediate need to make such determinations. Thus, BLM has been precluded from addressing R.S. 2477 questions administratively, to the extent it might otherwise have done so.

And, Department of Justice officials have been telling county governments that they cannot maintain their R.S. 2477 rights-of-way without first obtaining the permission of the BLM. It is a catch-22 of a serious nature. The BLM is not addressing R.S. 2477 rights-of-way on the lands they manage, while right-of-way holders are being told they cannot exercise the rights unless BLM addresses them first. For this reason, several western counties have been sued by the United States, based on complaints that assert that the counties have violated the law by maintaining roads without first seeking permission from the BLM or the National Park Service. These complaints, as well as other public statements made by Department of Justice officials, assert that permission from the land managing agencies is required before a county can take any action to exercise its rights.

The BLM or the Justice Department has told more than one county in Utah that they should seek FLPMA rights-of-way, more accurately described as conditional use permits than true rights-of-way, because there is no R.S. 2477 process in place and because BLM cannot authorize activities on R.S. 2477 rights-of-way without first going through a process. Counties are threatened with lawsuits if they exercise their rights as they have in the past.

I recently brought this matter and these current facts to the attention of Attorney General Janet Reno in a letter detailing the history of R.S. 2477. Among several things, I asked her if she was aware of Secretary Babbitt's policy guidance of January 22 and whether her office was consulted as to the legal sufficiency of terms defined within the policy. I asked her because, in the end, if this or any other government policy is challenged in court, the Department of Justice will have to defend it, and the lack of consistency on definitions and other wording contained in that policy could lead to insupportable and unnecessary litigation. Her response to my letter indicates that while her office was aware of the Secretary's January policy statement, she does not say conclusively that Justice was consulted. The letter closes by stating that "the final determination (on the policy guidance) * * * rests with the Secretary." The answer to my query is obvious.

This is interesting in light of the fact that the chief of the General Litigation Section of the Environment and Natural Resources Division at the Department of Justice wrote a letter to the Department of Interior's solicitor on January 29 asking that Secretary Babbitt's policy guidance be modified to reflect any future adjudication of R.S. 2477 rights-of-way claims. The Secretary later released a memorandum dated February 20 making this clarification in the policy statement.

My point in raising this matter is this: when it comes to establishing a new policy on such a technical issue as R.S. 2477 rights-of-way, where the definition of key words and phrases—like "highway" and "construction"—is of paramount importance, the Government's own legal authorities who may have to defend those definitions should be consulted.

To say the least, this situation is intolerable for holders of R.S. 2477 rights-of-ways. Attempts to rectify this situation in an amicable fashion, either through regulation or legislation, have proved futile. Now, Secretary Babbitt is skirting both the letter and spirit of recent congressional direction regarding R.S. 2477 rights-of-way through his policy guidance of last January. If he is serious about bringing closure to this matter once and for all and in a way that is in the best interests of the public and local and State governments that hold R.S. 2477 rights-of-way, then I encourage him to work with the Congress, not against it.

Mr. President, some claim that R.S. 2477 rights-of-ways are nothing more than dirt tracks in the wilderness with no meaningful history, whose only value to rural counties arises from the hope of stopping the creation of wilderness areas. Nothing could be further from the truth. No one is suggesting that we turn these rights-of-way into six-lane, lighted highways with filling stations, billboards, and fast food restaurants, as Secretary Babbitt alluded to in his recent letter threatening a veto recommendation if this bill is not amended. Yet, these rights-of-ways constitute an important part of the infrastructure of the western States.

My colleagues can think of it this way: Let's say your front yard belonged to someone else—the Federal Government, for example—and the gravel driveway was the only way to get to your house from the street. The Secretary's policy guidance would have the effect of denying you the use of your driveway. You would have to haul your groceries to your front door from the street.

A simple illustration, perhaps, but one that shows the importance of these R.S. 2477 rights-of-way to the people in the West.

There is no pressing environmental reason to change the R.S. 2477 rules other than to make Federal land more pristine than it has been since the pioneers settled the West. In most cases in Utah, this is absolutely impossible, since some of Utah's R.S. 2477 rights-of-way, like Utah State Highway 12 near Bryce Canyon National Park, are paved and heavily traveled. What would those opposing the full exercise of these rights-of-way have the State of Utah do—dig up the blacktop, remove the pavement, erase the yellow markings, and reclaim this road in the form it existed prior to 1866? That is ludicrous. And, we may as well sell off Bryce Canyon because no one will be able to get there. The right-of-way has been developed over time with improvements to it pursued in the name of protecting public safety and welfare.

Mr. President, any disposition of issues related to rights-of-way across public lands is of utmost concern to States like Utah with public lands. These rights-of-way provide the backbone of our transportation infrastructure and have deep historic and traditional roots in the overall development of the West. There are regulatory and legal precedents that should be followed and adhered to when these rights-of-way are administered. The

Secretary's policy guidance of January 22 is not consistent with this law, precedent, or custom, which is why the language in the supplemental appropriations bill is necessary.

I urge my colleagues to reject the Bumpers amendment.

I thank my colleagues from Alaska and I thank my colleague from Utah for their leadership on this matter, and in particular I would like to thank my colleague from Utah for allowing me to go first here because I am conducting a hearing over in the Judiciary Committee and I need to get back. So I am grateful to him for his courtesy in allowing me to do this. I hope that our colleagues will vote down the Bumpers amendment. It just plain is not fair to the West. What Secretary Babbitt is doing is not fair to the West. In fact, it is extreme and it flies in the face of many precedents of law that have existed and do currently exist.

Mr. President, I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that privileges of the floor be granted to Cordell Roy for today.

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

Mr. BENNETT. I thank the Chair.

There is an old line in politics that applies in campaigning that says when you are explaining, you are losing. And there would be those who say, because of the technicalities of the explanations we have to give about this fairly technical matter, we are probably losing the issue.

However, if you are explaining, it does not necessarily mean you are wrong. I am going to do my best to try to be as simple in my explanation today because we are not wrong on this one. This is not an issue where the Senators from the Western States are trying to do something improper for the rest of the country, something parochial just for ourselves. These are fundamental issues and they should be clearly explained and understood.

I would like to focus on one road and one circumstance that will help explain this matter. I picked this road because it is perhaps the most controversial R.S. 2477 road in all of Utah. It has a very romantic name. Its been called the Burr Trail. I do not know who Burr was, and I do not know what trail he or she made across this land in the first place. I suppose at some point somebody will tell me all of that. Frankly, as I read about it in the newspapers and heard people talk about the Burr Trail before I became a Senator, I had visions of a footpath going through a forest. That is what a trail means to me. And then I was elected to the Senate and had to get into the details.

This is, Mr. President, a picture of the Burr Trail. As the Presiding Officer can clearly see, this is a road. It is 28 feet wide. It is a well-traveled road. I have been on it. No, I did not need an all-terrain vehicle to get on it. I was on it in a street-legal vehicle, driving along it. It is used, whatever Mr. or Mrs. Burr anticipated, as the principal way the residents of Garfield County can get from one end of that county to another. It happens to run through the Capitol Reef National Park. It was with the full consent of the Federal Government that the western Burr Trail across BLM lands was improved. The lands in dispute have to do with the 8 miles of road that go through the Capitol Reef National Park.

This sign the Presiding Officer cannot see, as far away as he is, says, "Entering Capitol Reef National Park." I would call your attention to this sign as a guidepost because I am now going to show you a second picture of the Burr Trail taken somewhat after the first one, and here again is the identifying sign to show you where we are. There is one difference. If you would remember from the first picture, you will see that this is a blind curve. As you are coming down the Burr Trail here, if there is traffic coming the other way, you are not going to be able to see it. It is a blind curve. There could be an accident. Under R.S. 2477, the responsibility of maintaining the Burr Trail lies with the county. They own it. It is a right-of-way that they have received according to Federal law. The county went out and cut off 4 feet of land. As I said, the Burr Trail is 28 feet wide. As it got to this particular point, it narrowed to only 20, so the county decided to widen it to 24—not 28, not widen this curve as wide as the rest of the road but just take 4 feet off so you get a little bit of a view around the blind curve. They did that under their existing rights established by the Congress.

Well, the reaction that occurred in the Interior Department would have had you believe they had gone into Yellowstone National Park and bulldozed Old Faithful. Interior officials were sent from Washington, DC, to Garfield County, sat down across the table from Garfield County officials and demanded that those officials immediately sign over their right to any meaningful management authority over the right-of-way. They also assured them that if county officials did not, they could face the full power and force of the Federal Government in Federal courts in the form of an aggressive legal action.

This is not the only sin these county officials committed by creating an opportunity to see around the corner, by taking 4 feet off of an area that was, they understood, legitimately within their right-of-way. When they took this action, they did not realize they were setting off such an enormous controversy.

County officials did some other things on this road. They also made some improvements where the washboard effect had been created. They made some improvements where there had been debris that got on the road. They did changes in a normal maintenance circumstance, and for this they are now in Federal court with the full force of the U.S. Justice Department accusing them of all kinds of terrible environmental sins.

I am sorry, Mr. President, I do not see the terrible environmental sin, going from the first circumstance of this kind of a curve to this circumstance; of taking a road that is 28 feet wide, narrows going around that curve to 20, and saying, no, we will make it go around the curve at 24 feet. I do not know that this merits the kind of wrath that has been brought down by the Interior Department on the officials of Garfield County. But that is what we are faced with.

That is what we are talking about here, Mr. President. It has little or nothing to do with the road. It has little or nothing to do with the county maintaining this kind of right-of-way. It has to do with is who is going to make the decisions. The Federal Government is determined they will make the decisions whether the Congress gives them the right to do it or not. They will ride roughshod over the rights of the States and the counties whether the Congress gives them the authority or not. When the Congress specifically refused to give them the authority, this Secretary of the Interior said, "All right, if the Congress won't give me the authority, I will usurp it. I will take it on my own and see if the Congress has the willingness to demand that I live up to prior agreements."

That is what this amendment is all about, a demand that the administration live up to prior agreements. That is what it is all about, the issue of can the States depend on the acts of Congress in terms of maintaining their existing rights.

Mr. President, I would like to show you another picture. This one is not as controversial as the first pictures we have just seen. Those who say R.S. 2477 roads are mere trails, R.S. 2477 roads are mere footpaths, here is a picture of an R.S. 2477 road in the State of Utah. Why do I pick this particular one? Not because it is paved; there are plenty of R.S. 2477 roads in Utah that are paved. I picked this one because this is the road that millions of tourists will take when they come to the newly created Grand Staircase-Escalante National Monument. This is the road those tourists will have to use to come see the 1.7 million acres that the President spoke about so lyrically on the south side of the Grand Canyon last September. It runs for about 70 miles.

If we decide that the Secretary is right and the Federal Government has

jurisdiction over this road, I can tell you what the counties will decide. You take away their property rights in this road and the counties will say, "Since you have taken our property rights, you maintain the road. It is not our road anymore, let's allow the Federal Government maintain it." This is the kind of responsibility we are going to give to the Bureau of Land Management if we accept the motion of the senior Senator from Arkansas.

Frankly, as a member of the Appropriations Committee, I do not want that responsibility. I do not want to take on additional Federal financial burdens. When there is a county more than willing and able to maintain the road, I say, why don't we let it do it? We will not let it do it because the Secretary of the Interior says, "We want jurisdiction. We want jurisdiction over this road. We cannot trust the county to maintain the road."

I ask you, Mr. President, does this demonstrate that the county cannot be trusted to maintain the road?

No, the real issue is that there are a number of roads in rural Utah that the Federal Government officials want closed. That is why they want to take away the property rights of those roads away from the counties, because they wants the roads closed. They want the roads shut down. The impact of shutting down the roads will be that, ultimately, people will move from the county because they cannot conduct commerce anymore. Ultimately, they would like to see southern Utah rid of human beings except those who work in motels and in fast-food places, people who have tourist oriented jobs. But they want no other jobs down there because they do not want any other economic activity in southern Utah to continue.

Mr. MURKOWSKI. I wonder if my friend from Utah will yield for a question?

Mr. BENNETT. I will be happy to yield.

Mr. MURKOWSKI. Isn't a good deal of this debate about exactly what a highway is? And hasn't the Secretary, in effect, taken the assumption that he has the authority to change the terminology of what a highway is?

Mr. BENNETT. I ask my friend from Alaska if he has a definition of what a highway is, in these circumstances. If he would share it with the Senate, I will be happy to yield the floor to allow him to do that.

Mr. MURKOWSKI. I might just add, has my friend from Utah concluded his statement?

Mr. BENNETT. I probably concluded prior to the time when I quit talking, but I got carried away.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from Utah for yielding. I would like to highlight, specifically for the benefit of my friend from Arkansas, who is back on the floor, what this debate is about. It is about what a highway is.

Looking at the State of Arkansas, it is quite clear what a highway is. A highway is, as indicated on the highway map of the State of Arkansas, extended networks of access across the State, traditionally used for recreation, commerce, and so forth. The question we have here before us is the definition by the Department of Interior, how they are defining a highway. In 1988, the Department, after months of discussion and consultations with the Western States, developed its official policy on the R.S. 2477 right-of-way. That policy worked in conjunction with the States, as they defined historically what a highway was. I will quote this definition, because this is what this debate is boiling down to:

> A definite route on which there is free and open use for the public. It need not necessarily be—

And this is the key.

> It need not necessarily be open to vehicular traffic, for pedestrian or pack animal or trail may qualify.

It does not have to be for an automobile; pedestrian, pack animal, trail may qualify. That is where we have been in this debate up until now, and that is why it is appropriate that this be in here, to ensure that we will have that definition as opposed to what the Secretary of Interior has arbitrarily proposed in changing it.

He proposes to state that, through an action used prior to October 21, 1976, "by the public for the passage of vehicles [cars] carrying people or goods from place to place." That is the change. That is the significance. He is doing this arbitrarily. He is saying that no longer is pedestrian access or pack trail or wagon trial adequate. It must be vehicles.

Mr. President, in 1917 they did not have very many vehicles in Alaska. We do not have very many today. But the point is, we have trails. We have to have the right, as evidenced by those trails, as we look at the restrictions that Federal withdrawals have placed on our State. And here they are, Mr. President. How in the world are we going to get across Federal lands? All these colors—the brown, the green, the cream—these are the Federal holdings in the State of Alaska. The only thing that belongs to the State that we have access through are the white areas.

The point I want to make is, how in the world are we going to get a highway across from the Canadian border to the Bering Sea without crossing Federal land? We cannot do it. How are we going to get north? How are we going to cross all these Federal areas without this basic right that we had when we became a State 38 years ago? We are simply not going to be able to do it, unless we have this law that states specifically that the interpretation of a highway is for pedestrians, pack animals, to qualify. Because, Mr. President, if you look again at Alaska today, this is our highway network. That is where we are. That is our highways, 1,300 miles. We have a road north-south to Seward, a road over to the Canadian border. We have nothing to the west—absolutely nothing. This is an area one-fifth the size of the United States.

My point is, under the law as it is currently stated, you must have proof of a traditional route across public land, prior to 1976, to qualify. The Secretary proposes to change that. He would say you have to have had a road. That eliminates Alaska. It eliminates much of Utah, and several other Western States are affected. That is where we are.

I am reading from a definition of "highway."

> The term "highway" is the generic name for all kinds of public ways. Whether they be carriage ways, bridle ways, foot bridges, turnpike roads, railroads, canals, ferries, navigable rivers, they are considered highways.

But that is going to change under this definition. So, clearly what we are talking about is keeping in place the law that has been for 130 years in the departmental regulations as they have been codified since 1932, and again in 1994.

The fact is, if R.S. 2477 was not in existence prior to October 1976, it will not and it cannot be, by definition, created now. So there is no threat here to public land. There is no threat to the parks. This is all a smokescreen.

The reality is, we will simply be assured of having the rights-of-way across public land that we were promised as opposed to it being taken away. So I urge my colleagues to recognize the significance of what this inclusion means, why it is appropriate that it be there, why it is an emergency right now, and why I encourage all Members to reflect on the significance of this. The motion proposed by the Senator from Arkansas should be stricken, because it simply does not belong in the sense of his offering the amendment to strike this section.

So, I see my friend, the senior Senator from Alaska, is seeking the floor. I yield the floor at this time, other than again to remind all my colleagues, what we are trying to do here is keep in place a law that for 130 years has provided us with the protection, the assurance that we would be able to cross public land if, indeed, we had valid proof that we had used the routes prior to 1976. So we would have the assurance of being able to proceed with the orderly development of our State.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have been involved in this issue now for a

substantial portion of my life. I was in the Interior Department during the Eisenhower administration, 1955 to 1961. At the end of that period, I was the Solicitor of the Interior Department. During that period, we obtained statehood for Alaska. The whole question of what our rights would be as a State was debated at length, not only in the Congress but in the White House and the old Bureau of the Budget.

The Revised Statute 2477 was the basis for really the modernization of the West. And when we came to the period of the seventies—and I was here as a Senator—when the proposal was made to repeal R.S. 2477 in 1974, I had a very long debate with Senator Haskell of Colorado at the time, and we subsequently did not pass the bill in that Congress.

In 1976, when the rights-of-way bill was brought up again, we discussed at length the protections that would assure that the commitment that was being made to the Western States, in general, and Alaska, in particular, would be ironclad. So at my insistence, the 1976 act contained three specific statements.

The first one is in section 701(a):

> Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.

Again in section 701(f):

> Nothing in this Act shall be deemed to repeal any existing law by implication.

And in section 701(h):

> All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

Starting in 1993, the Secretary of Interior attempted to ignore all of those guarantees and say that as manager of the Federal lands, he has the inherent right to ignore that law and to issue regulations to change this concept, so that the valid existing rights will be determined by Federal law and not by State laws as they have for 130 years. There has never been, before this administration, any attempt to define the rights-of-way across Federal land by Federal law. They have been determined by the general law of each State, and ours are no exception in Alaska.

But very clearly, we have three times now spoken here in the Congress to try and stop this move by the Secretary of the Interior and his Department to change this tradition. We did it in the National Highway System Designation Act, we did it in the Interior appropriations bill for 1996, and the Interior appropriations bill for 1997. Now, however, what we are trying to stop is his announcement of a policy which will govern all Federal lands. It is not regulation, it is a statement of policy now. Congress prohibited the use of funds, we prohibited the issuance of regulations, but now he says he is going to announce a policy, a new edict, and that is that there is a Federal law pertaining to rights-of-way and they will define that and it will not be based on State law at all.

What we are talking about, as my colleague from Alaska has said and the Senators from Utah have said, is the process by which all of the West obtained the rights-of-way that ultimately became the road system of the West.

In Alaska, because of our situation prior to statehood, the Federal Government built the highways when we were a territory, and it built one main road. It was really built for the aid of the war effort. The Alaska highway came up through Canada, and then came down through Alaska at our eastern border, and came to our major city of Anchorage. It came through Fairbanks and then down into the Anchorage area. That was one main road. Since then, we have built some arterials off that. We had a long time convincing the Congress that we were a State and we ought to have equal treatment under the National Highway Acts. Now we have that.

Now we come to the period where this administration wants to assert, by virtue of Federal supremacy, a concept that, on over 100 million of acres of land that were reserved by the Congress in 1980—and, incidentally, they were specific in terms of recognizing valid existing rights at that time, too—now this administration wants to say none of these rights under the Revised Statute 2477 shall be recognized on Federal lands in Alaska, period.

The Federal Government owns more than 68 percent of Alaska's land. As my colleague has pointed out, the State of Alaska is a checkerboard with Native land, Federal land, and State land and very little private land. But the right of access to the private land through the State land and the Native land is of necessity such that rights-of-way across some Federal lands are required if we are to have a road system to serve the State as a whole ultimately.

This is not a simple question for Alaskans. What it really comes down to is a question of can we trust the Federal Government? We had a long debate here that went on for 3 years. The record is absolutely clear that the Congress, at that time, agreed that we had these rights and that they had to be protected if Revised Statute 2477 was to be repealed. I have to say, from 1976 to 1993, there was no question about it. But now, because of the onslaught of a direct mail advertising campaign by extreme environmental groups who have painted us as being the arch devils of management, they claim that we are trying to establish some new rights across Federal lands. By definition, none of the rights that could vest after 1976—they are all prior to 1976, and they were protected by Congress and they were across lands that were not reserved in 1976.

I think the real problem here is the people who are doing this are unwilling to accept the decisions made by Congress. Every Congress has said we are not going to interfere with valid existing rights. Again, these rights are vital to a State such as ours. I really cannot deal with it without going back over a whole history of what has been done in our State.

Let me say, our amendment is simple. It continues the same policy the Congress has voted on three times now, and it says this new policy concept of the Department of the Interior—not a regulation, not a rule, both of those were prohibited by past actions, not an order that was also prohibited—but this new concept of a policy, they can't do it in any way. If they want to do it, they can send up a proposal to Congress, let us debate it, and we will see what the law will be for the future, and we will see as a result of what they are doing if there is any compensation due to the people whose rights are condemned by Federal action. This is a way around the whole concept of trying to compensate people for the absolute extinguishment of rights that were created and protected by Congress through past actions.

Some have suggested that almost a million new miles of roads and claims would be asserted by virtually anybody, anyone. Mr. President, I tire at trying to answer false statements like that. As my colleague has said, we have 18,000 miles of roads in an area one-fifth the size of the United States now. We can only build those roads with highway funds that are available, and at the cost of roads, it is just not possible for us to contemplate a million miles of road. We are not contemplating even doubling what we have now. We are contemplating just some small roads to connect various villages and communities that are near the road system that exists now, and even that will be over a period of years.

This is a process that we believe that the Congress ought to recognize. We create no new rights-of-way across Federal land. We only recognize those that were in existence before 1976, and we preserve those rights once more on the same basis that they have been available throughout this country for 130 years based upon State law. The courts have asserted, past administrations have asserted—I don't know of anyone, as I said, in the past who has asserted that there was a Federal law that determined how rights-of-way were created across Federal land.

There is the specific right-of-way concept where people are coming and asking permission to cross Federal land to build pipelines or build transmission lines for various uses of Federal land, and that is what the Trans-Alaska Pipeline Right-of-way Act was all about.

But we believe that in terms of what we are doing now, I am told—I don't know if Senator MURKOWSKI mentioned this—we asked the Department of Natural Resources of Alaska to tell us what rights-of-way might be capable of being asserted. There were 1,900 originally reviewed, and 700 were found to be on State land. Of the remaining 1,200, about 560 appeared to qualify as potential rights-of-way. The State deferred 400 of those because they crossed Federal withdrawals. That is to be looked at at a later time, and we are now proceeding with very few of them. I have been told that so far, we have used about 10 of these rights-of-way in the time that we have been a State, which is now almost 40 years. Mr. President, you don't use them until the highway system gets to the point where you can use them to extend it on out. So Congress protected those rights-of-way for the future so that when the highway system starts to expand, it will be possible to get to those communities.

My last comment to the Senate will be this. My colleague and I labor here for land that is so far away that we are closer to Tokyo than we are to Washington, DC. We spend a great deal of our time trying to convince the Congress to keep the commitments that were made to us as we sought and fought for statehood because we wanted to be partners in the Union.

Now it seems that people from other States are doing everything they can to turn us back into a federally dominated territory. That is why we are here on the floor. We wanted to be a State to protect our rights. That is our No. 1 duty, to see to it that the commitments made to our State are kept by the Federal Government. And it is very hard to do right now. It is very hard to do when there are people in the administration who want to just be those who dictate to our State.

I cannot emphasize this enough to the Senate, this is not a new subject. We have done in this bill what we did three times before. We have acted to prevent the Secretary of the Interior continuing on this course of trying to change the law that guarantees the protection of valid existing rights under Revised Statute 2477.

Mr. President, I mentioned my own background on this subject. But I have to say, one of the reasons that I am concerned about it is because, as a young lawyer in the Interior Department, I remember some of the fights that existed in the 17 Western States that had public lands before we became a State. This same battle took place before, but in different ways, where agencies of the Federal Government just tried to block the use of lands. But no one ever thought of creating a Federal rights system and taking unto themselves the power to determine what rights existed prior to that time.

That is what the Department is trying to do now. They are trying to say, "Wait a minute. We're the managers of this land. All this land is still under our domination and, therefore, we're going to tell you how you cross this land."

The Department of the Interior has done something—I used to tell our people in the Interior Department when I was there: "We do not own this land, you and I. We are the stewards of this land. It's owned by the people of the United States." But if you hear these people talk now in the Department of the Interior, it is their land. They own it.

I have to tell you, Mr. President, it will be a cool day in Hades when Alaskans will allow them to do that. I hope that the Senate will stand by us in this battle, which is just a continuation of battles we have fought here on many other issues to protect our rights as a State.

These rights ultimately will be used by the State of Alaska to build public highways. We do not have a county system. Our population base is small. We have a borough system, but basically the roads in Alaska are built by the State. So in our State the rights are basically protected by the State and the State nominates those areas where it wants to proceed to utilize the rights-of-way that were created prior to 1976.

I do think, Mr. President, that if there is anything that I would like to leave with the Senate, it is that at some time or other every Senator is going to have to come out here and say, "In the days gone by, a compromise was reached regarding an issue in my State, and the decision was made and put into law."

All I want you to do is recognize an act of a prior Congress in committing the United States to a course of action that must be followed now if States rights are to mean anything. This is a basic States rights issue to me, to have the ability to provide the expansion of the transportation system to meet the growing needs of people in a frontier area. If the Senator's amendment is adopted, the Secretary of the Interior will be free to issue an edict that future rights in Alaska will be determined by the Secretary of the Interior.

What does that do? It returns us back to 1958, to the territorial days. We would not be a State. No State is dominated by a Cabinet officer. We were as a territory. We had an Office of Territories in the Department of the Interior when I was at the Department of the Interior. And Alaska was one of the desks in the Office of Territories. That person carried all of the decisions of the Secretary of the Interior with regard to Alaska. As a matter of fact, Alaska used to call him the "Great White Father." Well, there is not a Great White Father for Alaska now. There are 100 Senators here and 435 people over there who have something to do with making decisions regarding what happens to the rights of the people of the State of Alaska.

I urge the Senate to stand by us and maintain the course, that we will live by the law and not by edicts of changing personnel in changing administrations as the years go by.

Mrs. BOXER. Mr. President, I rise today to discuss Senator BUMPERS' amendment to strike section 310 of the supplemental appropriations bill related to rights-of-way across public lands.

I support Senator BUMPERS' amendment because it strikes language in the supplemental appropriations bill which is not only highly controversial and bad for public lands, but it also has nothing to do with emergency funding—the purpose of this supplemental appropriations bill.

Rights-of-way is a principle of property use that allows for continued use of a pathway across public land when it can be proven that the path existed before the land was reserved for Federal designation—so a road that existed prior to the designation of the Yosemite National Park would be a valid right-of-way.

In our Nation, any individual or local government can claim a right-of-way. The validity of this claim must then be determined.

In 1988, then Secretary of the Interior Hodel developed policy guidelines for dealing with right-of-way claims over public land.

The Hodel policy effectively deferred authority over rights-of-way determination to States and provided very broad guidelines to assist States in making these determinations. The guidelines allowed for a right-of-way to be granted if merely a large rock or vegetation was removed from an area. Once a right-of-way authority is granted, a small dirt footpath through Yosemite National Park could be converted to a six-lane paved highway.

The Hodel policy makes it much easier for right-of-way claims to be asserted through many of our most precious environmental areas—including designated national parks, wildlife refuges, and wilderness areas.

In January 1997, Secretary Babbitt revoked the Hodel policy, and instituted revised policy guidelines in an effort to put the Federal Government back in charge of protecting our remaining Federal lands.

The Babbitt policy establishes a Federal process whereby right-of-way claims are evaluated. This policy would not allow a six-lane highway to tear up our precious national parks. It would ensure the rights-of-way be granted only for major roads that require such authority. And any alteration of the land would be susceptible to all Federal environmental regulations.

Secretary Babbitt is unable to follow normal procedure for regulations—proposing rules in the Federal Register, receiving public comment, and promulgating final rules—because of provisions included in the past two Interior appropriations bill which prohibit such actions. In fiscal year 1996, the Secretary was entirely prohibited from promulgating rules concerning rights-of-way; and for fiscal year 1997, the Secretary is only able to propose such rules if expressly authorized by an act of Congress.

If we are not allowed to move forward with Secretary of Interior Babbitt's policy, States will have the authority to determine the validity of existing rights-of-way claims. We therefore create the potential for destruction of valuable Federal lands—lands that belong to all the people of our Nation.

Vast areas may be prohibited from wilderness designation because of right-of-way claims that scar the land. In my State of California, the current number of claims is relatively low. However the potential for claims is thought to be quite high. The Bureau of Land Management estimates that the 12 claims currently pending cover hundreds of miles of roads through California's unique wilderness areas.

Remaining land in California's Mojave Desert, Death Valley, and Joshua Tree poses a serious potential problem should there be a right-of-way claim.

With the California Desert Protection Act, Congress was finally able to protect these unique lands. The language of the bill now threatens the very protection we worked so hard to achieve.

There are few remaining natural lands which have been held in trust by the Federal Government for all people to enjoy. These precious natural resources must be held to a high uniform standard which protect only valid rights-of-way claims while promoting environmentally responsible management of our Federal lands. These are Federal lands, and as such should be governed by Federal policy and procedure.

In a letter to Chairman STEVENS and Senator BYRD, Director of the Office of Management and Budget Frank Raines and Secretary of Interior Bruce Babbitt have both stated that they will recommend the President veto this legislation should this language be included. This is not the time to risk veto of legislation which will provide necessary aid and disaster relief to those who desperately need it.

We saw the disastrous results that occurred from the salvage logging rider. This amendment is just that—an unnecessary, antienvironmental rider which could devastate our remaining public lands.

I urge my colleagues to support Senator BUMPERS' amendment. We must not prevent the administration from establishing necessary procedures for dealing with remaining right-of-way claims.

Mr. BAUCUS. Mr. President, I rise today to speak in favor of Senator BUMPERS' motion to strike section 310 from the Supplemental Appropriations Act. This section should be removed from the Supplemental Appropriations Act for two reasons. First, it could harm our Nation's wilderness areas, national parks, and wildlife refuges. Second, it is wrong as a matter of principle to tie controversial issues to flood disaster relief. We simply should not play politics when people's lives are in the balance.

In 1976, Congress enacted the Federal Land Management Policy Act and thus repealed an 1866 statute that allowed practically unrestricted road construction across our public lands. Congress agreed, however, to recognize the legitimacy of highways constructed as of 1976.

In essence, the appropriations rider reinstates a 1988 policy that broadly defined highways to include foot paths, pack trails, and even dog-sled routes. If these paths are recognized as highways constructed prior to 1976, then they can be upgraded and enlarged to full roads, even if they run through existing wilderness areas, national parks, or wildlife refuges. These areas are national treasures. They are visited by millions of Americans every year. We should not let them be roaded without careful thought and deliberation.

This rider hits close to home for me. This provision could allow roads to be built through spectacular wilderness in Montana. Often, we have to speculate about what the effect of a piece of legislation will be. In this case, speculation is not necessary.

An R.S. 2477 claim has been filed to build a road through the middle of one of Montana's most popular wilderness areas. Fortunately, that claim was recently rejected by the Department of the Interior. If this rider becomes law, this and other claims could be granted with devastating effect to our Nation's wilderness areas.

Equally disturbing, this section could prevent Montana roadless areas from being designated as wilderness in the future. I have carried bills in the Senate to designate Montana's spectacular Rocky Mountain Front as wilderness. This is an area of soaring mountain peaks, crystal clear streams, and untrammeled meadows. Bills to designate this area as wilderness have received bipartisan support and have passed the Senate.

If section 310 becomes law, the Rocky Mountain Front and other roadless lands in those bills could be denigrated. If section 310 becomes law, the Senate may lose its right to decide whether to designate those lands as wilderness.

And section 310 applies to more than wilderness lands. Section 310 would even affect our national parks and wildlife refuges.

But this vote is about more than the roads that could be built across our Nation's wildlands.

This vote is also about people who have suffered through an unusually harsh winter in Montana and are seeking disaster relief. This vote is about people in North Dakota who have suffered devastating floods.

Let me read what the paper in my State's capitol wrote yesterday about section 310. In an editorial entitled "An Ugly Kind of Politics," the Helena Independent Record writes:

> This sort of thing might be business as usual in Washington, but we think the specter of Clinton being forced to veto a flood-relief measure because of tacked-on skulduggery is way out of line. We suspect it wouldn't sit too well either with flood victims in the Dakotas—and, perhaps, potential flood victims in Montana as well. Politics is seldom pretty, but this is downright ugly.

Mr. President, I agree with this assessment, and I ask unanimous consent that the complete text of this editorial be printed in the RECORD.

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

[From the Helena Independent Record]

AN UGLY KIND OF POLITICS

It might not be anything new to the halls of the Congress, but that doesn't make recent stealth legislation by Alaska's senior senator any easier to take.

Sen. Ted Stevens, R-Alaska, is chairman of the Appropriations Committee, which is writing an emergency bill authorizing $5.5 billion in relief for flood victims.

This is vital, must-pass legislation that everybody agrees needs quick approval. So Stevens tacked onto the bill a pet piece of new legislation that would make it far easier to build roads through federal parks, refuges and wilderness areas.

The measure, based on a Civil-War era law, would give the government less control over right-of-way claims.

Contending the legislation would make the federal government effectively powerless to prevent the conversion of foot paths, sled-dog trails, jeep tracks, ice roads and other primitive transportation routes into paved highways, Interior Secretary Bruce Babbit urged President Clinton to veto the measure if Stevens' provision remains in the bill when it reaches his desk.

This isn't the only deceptive legislation going on. The Alaska Wilderness League is complaining that Stevens and other representatives from that state are trying to rig the federal budget process to allow oil drilling in the Arctic National Wildlife Refuge.

The league says lawmakers may have to vote against a balanced budget deal to save the wilderness area.

According to oil-drilling foes, Alaskan politicians are working to have colleagues include estimated oil drilling revenues of $1.3 billion into budget allocations without mentioning that the revenues will have to come from opening the wildlife refuge to development.

This sort of thing might be business as usual in Washington, but we think the specter of Clinton being forced to veto a flood-relief measure because of tacked-on skulduggery is way out of line. We suspect it

wouldn't sit too well either with flood victims in the Dakotas—and, perhaps, potential flood victims in Montana was well. Politics is seldom pretty, but this is downright ugly.

Mr. BAUCUS. Mr. President, the American people are losing faith in our political system. And they are losing faith because of the way that politics is played. Because of this type of rider.

How will the disaster victims in the Dakotas feel if their aid is delayed because some want to play a game of poker where the stakes are incredibly high? Where the stakes are the blankets that flood victims need to stay warm or where the stakes are pumps that are needed so that people can drink clean water?

And what of the people in other States?

Oregon stands to receive almost $140 million from the supplemental appropriations bill.

Louisiana, $116 million.

For other States such as Maine, Vermont, and Virginia, the amount of the funds is somewhat smaller, but the need is no doubt just as great.

People in all 50 States receive funds from this bill. People in all 50 States will be affected if we allow politics to delay this bill.

This money will help Americans who have lost their homes, their businesses, and all of their earthly possessions. To block this funding or to delay it through the use of these types of riders is just plain wrong.

To force the American people to accept new roads through their national parks or wilderness areas, just to get their disaster relief is equally wrong.

Mr. President, the supplemental appropriations bill is the wrong place to play politics. I ask my Senate colleagues to vote to strike these riders as a matter of policy and as a matter of principle.

Mr. STEVENS. Mr. President, as I have already reviewed in some detail, section 2477 of the Revised Statutes, R.S. 2477, granted rights-of-way for the construction of public highways across unreserved Federal lands.

Congress passed this law in 1866 and the provision was later recodified at section 932 of title 43 of the United States Code.

By permitting travel across Federal lands, R.S. 2477 facilitated the settlement of the West. The rights-of-way granted pursuant to R.S. 2477 remain land access routes for rural residents.

R.S. 2477 was repealed in 1976 by section 706 of the Federal Land Policy and Management Act [FLPMA]. Again, I point out to my colleagues, section 701(a) of FLPMA expressly states that "Nothing in this Act * * * shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act."

Further, section 701(f) says that nothing in FLPMA "shall be deemed to repeal any existing law by implication." And section 701(h) specifically states that "All actions by the Secretary concerned under this Act shall be subject to valid existing rights."

Three times in the same act Congress made it clear that nothing in FLPMA gave the Secretary of the Interior the power to terminate valid existing rights. We meant it then and we mean it now. The Secretary is ignoring the law and all existing precedents with his proposed policy that effectively terminates valid existing rights under R.S. 2477, which for over 120 years have been determined under State law.

Regulations in place in 1976 provided that the validity of the right-of-way should be determined by State law. Likewise, Federal courts have found State property laws control assertions of an R.S. 2477 right-of-way.

In Alaska, which we still call the Last Frontier, R.S. 2477 rights-of-way are still being used by miners, trappers, and others traveling across specific tracts of unreserved public land.

The Interior Department in the 1980's saw the need for the Federal Government to recognize these trails for what they were—public access routes. Interior adopted a policy in 1988 which for the most part kept Alaskans out of court.

Elsewhere, Federal courts were being asked to quiet title on lands with an R.S. 2477 right of way, and these courts looked to State law to decide if there had been construction of a highway.

In August 1994, Interior published new proposed regulations which would have established Federal definitions for key terms in R.S. 2477. According to Interior, where there was a conflict between the Federal definitions and State law, under the proposed regulations the Federal rules would prevail.

This approach would have redefined existing property rights. It would also have the incongruous result of having some R.S. 2477 rights of way quiet title actions adjudicated under State law and others under Federal law.

Soon after Interior proposed these new rules, resolutions were introduced in the House and Senate urging the Secretary to withdraw them. The comment period was subsequently extended through August 1995.

In late 1995, Congress placed a 1-year moratorium on any rulemaking regarding R.S. 2477 rights of way. The fiscal year 1996 Interior appropriations law, enacted in 1996, also included a similar moratorium.

Congress acted a second time in 1996. Section 108 of the General Provisions of the fiscal year 1997 Interior appropriations law permanently requires congressional authorization of any rules and regulations developed by agencies to address the recognition, validity, and management of R.S. 2477 rights of way.

This measure, agreed to by Congress last fall, was not vetoed, nor was there ever a threat of veto that I was made aware of.

However, in January 1997, the Secretary sought to evade this law by issuing "policy guidance" which provides a process for recognizing R.S. 2477 claims only "where there is a demonstrated, compelling, and immediate need." This process is similar to that in the disputed regulations which Congress has prohibited by law since 1995. Issuance of this policy circumvents the legal requirement to have congressional approval of agency rulemaking concerning R.S. 2477 rights-of-way.

Section 310 of the supplemental appropriations bill, S. 672, prohibits the use of funds appropriated for fiscal year 1997 and thereafter "to promulgate or implement any rule, regulation, policy, statement or directive" issued after October 1, 1993, regarding the rights-of-way Congress granted by R.S. 2477. The October 1, 1993, date makes it clear that Interior cannot do by policy what it by law cannot do by regulation. Under section 310, Interior can continue to implement Federal policy with respect to R.S. 2477, but only those policies and regulations previously agreed to prior to the attempted change that Congress has repeatedly rejected.

Section 310 is needed to enforce the requirement that Congress first authorize any rules regarding R.S. 2477 rights-of-way. Allowing the January 1997 policy to remain in place vitiates the Administrative Procedures Act and the express directives of the Congress, which were approved by the President.

Section 310 will not, as some suggest, open up Alaska's wilderness areas and parks to almost a million new miles of roads upon the assertion of claims by "virtually anyone."

First, as I have said, section 310 only tightens the standing mandate that agencies obtain specific authorization from Congress, which includes our elected representatives of public lands States, before issuing rules that would effectively deny valid, existing property rights under R.S. 2477 in those States.

In short, this provision creates no new rights-of-way across Federal land which were not in existence before 1976. It merely preserves rights-of-way which were established at least 20 years ago, but still have not been recognized by the Interior Department.

R.S. 2477 rights of way are not exempted from environmental, health and safety, and other laws to protect the public.

Second, with respect to all existing rights of way, I am assured by the Governor of Alaska that our State will not be paved over. The Alaska Department of Natural Resources completed a study recently to identify the list of rights of ways my State might assert as public highways under R.S. 2477.

Some 1,900 were initially reviewed, but 700 were found to be on State land and not subject to this Federal law.

Of the remaining 1,200, only 558 appear to qualify as R.S. 2477 rights of way.

So far the State of Alaska has filed only one quiet title action.

The State of Alaska also advises me that it will not file rights-of-way across section lines, unless of course there is a preexisting trail that otherwise constitutes an R.S. 2477 right-of-way.

Asserting rights-of-way across section lines alone would be a fruitless exercise. Mere geography tells us that we don't need roads across mountain tops.

Cost is another reason. I'm advised that it costs $6 million to build 1 mile of road in my State.

I proposed section 310's funding restrictions in good faith, with the confidence of having stood on this floor over 20 years ago debating the legislation that ultimately became FLPMA.

On July 8, 1974, the Senate debated S. 424, the bill that the Senate passed in the 93d Congress and was reintroduced in the 94th Congress as S. 507. S. 507 was the bill that ultimately became FLPMA.

In July 1974, I was assured by Senator Haskell, chairman of the relevant subcommittee within Interior and Insular Affairs, that our young State would have the same chance as other Western States to develop a road system based on the pattern of use its settlers established and the laws the State enacted.

Senator Haskell told this Chamber it was the intent of Congress that all existing R.S. 2477 rights-of-way would be determined according to the law of the State the right-of-way was in. In fact Senator Haskell cited a specific North Dakota case, Koleon versus Pilot Mound Township, as the basis for the committee's understanding of the law. That case said an R.S. 2477 right-of-way is established "if there is use sufficient to establish a highway under [the] laws of the state." I refer my colleagues to the CONGRESSIONAL RECORD of July 8, 1974, page S22284.

Today, I am proposing that we uphold the intent of the Congress of 20 years ago and the intent of the 104th Congress as well.

Last fall Congress agreed to a provision in the fiscal year 1997 appropriations law requiring agencies to seek congressional authorization of R.S. 2477 rulemaking. Section 310 of the supplemental asks nothing new, it merely prevents Interior from doing by agency policy what Congress prohibited it from doing by formal rulemaking.

I urge my colleagues to reject this amendment so that Interior understands it cannot circumvent the will of Congress through sleight of hand.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. STEVENS. I was going to go to this other desk and see if I could get the Senator from Arkansas into a colloquy regarding the timing of the votes that we might have.

Mr. BUMPERS. I am very amenable, I say to the Senator. I would suggest a 20-minute time limit on the remainder of this amendment equally divided.

Mr. STEVENS. May I ask that the cloakrooms check that out and get us a time that is agreeable. The timeframe is agreeable to me, but I think some Members may be out of the building now, and we want to get the time set.

But why doesn't the Senator take the floor now?

I will yield the floor.

As soon as we can get worked out between the leadership on the two sides the timeframe that can be agreed to as to the vote on this amendment and on the D'Amato amendment——

Mr. BUMPERS. I understand that our side needs to check. We have people coming and going. I assume that is what the Senator has concern about.

Mr. STEVENS. That is correct.

Mr. MURKOWSKI. I believe there may be a second degree pending.

Mr. BUMPERS. There will not be a second degree.

Mr. STEVENS. It is my understanding that the Parliamentarian will rule that the other two amendments are not properly drawn under the process of cloture for those to be considered.

I will state, though, that the suggestion made by Senator MCCAIN was a good one. When we get to conference, if we do with this provision, I intend to find some way to accommodate his suggestion that we ask the Secretary to come forward with a proposal to be debated that might set the policy for future utilization of these rights-of-way throughout the West. We will pursue that in conference.

But there will be no other amendment, my friend.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I will not belabor the points that have been made time and again here.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. 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. BUMPERS. Mr. President, I had a Senator ask me earlier if I felt that I was right about this amendment. Let me answer that question for any Senator who would ask the same question. I have never felt more comfortable with a position in my life than I do on this. It has nothing to do with Alaska or Utah or Idaho. What it has to do with is saying this language of the senior Senator from Alaska, No. 1, has no business in this bill; No. 2, if it did, it is a terrible amendment; No. 3, men and women of good will could sit down and work out a sensible policy for the Department of the Interior and require them to report back to us with regulations or something else.

But under the existing law, what the amendment of the Senator from Alaska does is to return the determination of whether these thousands and hundreds of thousands of miles of claimed rights-of-way constitute a highway within the definition of the Hodel policy. It is a question of whether or not we are going to allow rights-of-way simply because they were claimed to be there before 1976 when we repealed R.S. 2477, whether we are going to allow the use of those rights-of-way to cross wilderness areas, national parks, monuments, all kinds of protected Federal areas.

I submit to you that the people of this country, if they knew the substance of this debate, that we were actually considering the Stevens amendment to this bill, if they knew what the implications of that were, they would be up in arms. I cannot believe—not to denigrate my good friends from these Western States who have a deep and abiding interest, an understandable and deep and abiding interest, in this issue—I cannot believe that more than 3 percent of the people of this country would condone granting applications for highways across these areas because there was some kind of a footpath or a trail or something else, even vegetation that had been tromped down.

Under the Hodel policy in 1988, Donald Hodel had a policy that said: If you have cut high vegetation, you had a lot of weeds and you cut them down, that constitutes a highway.

Have you ever heard anything as ridiculous as that in your life?

Mr. MURKOWSKI. Would the Senator from Arkansas yield for a question?

Mr. BUMPERS. Yes.

Mr. MURKOWSKI. I thank my friend.

I wonder if the Senator from Arkansas feels it is appropriate that the Secretary of the Interior arbitrarily has gone ahead and changed the definition of what a highway was. Is it right for the Secretary to take a previous policy that was worked out in conjunction with the States where there was a definitive highway definition in the historical terms—and I quote—"as a definite route or right-of-way that is freely open for all use, it need not necessarily be open to vehicular traffic, or a pedestrian or pack animal trail may qualify"—and as a consequence, isn't it true that this was the policy of the Department of the Interior until earlier

this year when Secretary Babbitt, behind closed doors—not a public policy; behind closed doors, without consultation—unilaterally changed this definition? And isn't it true that the new definition now reads, "a thoroughfare used prior to October 21, 1976, by the public for the passage of vehicles carrying people or goods from place to place"? He changed the definition.

Is that, I ask my friend from Arkansas, appropriate and fair and part of a public process, or, indeed, is that not a simple dictate by the Secretary who arbitrarily changes the interpretation of what was Federal law? Is that right, I ask my friend from Arkansas, and correct?

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

Mr. BUMPERS. Let me answer the question this way, Senator. I did not hear a single soul complain when Donald Hodel established his policy in 1988. It is only the Babbitt policy of 1997 that seems to be objectionable.

There is no question, if you want to raise the question about the authority of the Secretary to issue a policy, if Secretary Hodel has the right to issue a policy, why does his successor, Bruce Babbitt, in 1997, not have the right to reverse that policy?

Let me go ahead and say that the Senator quoted the Hodel policy correctly, but he did not go quite far enough. Here is what Donald Hodel's policy said about the requirements needed to prove what constitutes construction of a highway: "Construction is a physical act of readying the highway for use by the public according to the available or intended mode of transportation, foot, horse, vehicle, et cetera." Horse—that is right—vehicle, foot, those all constitute highways.

His policy goes on to say, here are some examples of what constitutes construction of a highway: "removing high vegetation." Go out and cut the weeds, it becomes a highway. "Move a few large rocks out of the way," it becomes a highway, or "filling in low spots"—all of those may be sufficient to show construction for a particular use.

Now, Senator, let me ask you a question, does that make any sense to you?

Mr. MURKOWSKI. I will respond relative to the issue that is before the Senate here, and that is the manner in which the Secretaries—Hodel on one occasion and, today, Secretary of the Interior Babbitt—have acted.

First of all, as I indicated, Secretary Babbitt, behind closed doors, without consultation with Western States, unilaterally changed the definition. Don Hodel did not. Don Hodel worked out a policy in conjunction with the States defining a highway and its history, and it was done in consultation with the States.

My friend from Arkansas should recognize that is a significant difference. This Secretary is moving on his own volition to interpret as he sees fit. The previous Secretary of the Interior brought in the Western States affected and they worked out a definition and a process. Now the definition has changed to any vehicles, and the appropriateness of that is what I question the Senator from Arkansas with regard to the motivation.

It is here that one Secretary developed a public process.

Mr. BUMPERS. Mr. President, I reclaim the floor.

We ought to pin a Medal of Freedom on Bruce Babbitt.

Mr. MURKOWSKI. Where?

Mr. BUMPERS. He revoked a policy that said any time you mow high weeds, apply to us and we will give you a right-of-way to build a four-lane highway over that footpath. Move a few rocks out of the way, we will consider that a highway and allow you to build on it. Fill in a few low spots, we will make it a highway and you build it. Even if it is across a national park or across a wilderness area or across a national monument, a historic area that we have set aside. Can you think of anything more insane than giving States the right to build highways across Federal lands no matter where they are, simply because somebody mowed some high weeds or because somebody moved a few rocks?

While I am at it, Senator, before I get into it with you, let me also point out, here is the Babbitt policy. This is the policy that reversed the 1988 Hodel policy. I want you to listen to this. I have a letter from Bruce Babbitt in which he says he will urge the President to veto this bill if the Stevens amendment is not taken out of it. I ask unanimous consent to have that printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, DC, April 30, 1997.

Hon. TED STEVENS,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: I am writing to express strong opposition to the provision concerning Revised Statute 2477 that I am informed you intend to include in the pending Emergency Supplemental and to a proposed amendment by Senator Craig concerning application of the Endangered Species Act to the operation, maintenance and repair of flood control structures.

In light of my strong concerns, if either of these proposals or similar extraneous and controversial endangered species amendments are included in the emergency Supplemental when it is presented to the President for his signature, I would be compelled to recommend that he veto the legislation.

R.S. 2477. Two decades after the repeal of R.S. 2477, the profusion of unresolved pre-1976 claims presents a planning and management problem for federal land managers and other landowners, and uncertainty for potential right-of-way holders and users of public land. My efforts over the past several years have been directed to establishing a clear, certain, and fair process to bring these claims to conclusion.

I am informed that your provision would prohibit the expenditure of funds in 1997 and thereafter to "promulgate or implement any rule, regulation, policy, statement or directive issued after October 1, 1993 regarding the recognition, validity, or management of any right of way established pursuant to R.S. 2477." I am also informed that proposed report language states that it is the intention of the provision to "restore the prior practice of deferring to the law of the State in which a right of way is located for purposes of determining the recognition, validity, and management of such right of way."

The public will be poorly served by Congressional action that has the effect of rescinding the Department's current orderly manner of proceeding to deal with right-of-way claims and, at the same time, prevents the Department from issuing final rules governing claims under R.S. 2477. The proposed language does not clarify the process for handling right-of-way claims under R.S. 2477, but would add to the uncertainty and confusion of that process.

If the proposed provision requires the Department and the courts to defer to state law, as the proposed report says it does, the consequences could be devastating. Such a requirement could effectively render the Federal government powerless to prevent the conversion of footpaths, dog sled trails, jeep tracks, ice roads, and other primitive transportation routes into paved highways. The proposed amendment could even result in a decision validating a right-of-way that runs through the secure area of a military installation. Under your proposal, the military could be prevented from regulating traffic on these alleged rights-of-way.

That result would be fundamentally inconsistent with modern statutes that provide access to and across Federal lands, and would fatally undermine the principles these laws embody, such as public land retention, comprehensive land planning, public involvement in land use decisions, compliance with environmental laws, and mitigation of negative environmental impacts.

The practical implications of the blanket adoption of state law can be seen, for instance, in Alaska, where state law first adopted in 1923 and later upheld in the state Supreme Court provides for a claim of highway easement either 66 or 100 feet wide, across each section line in the entire state. These sections cross the state on a grid one mile apart, both horizontally and vertically. Thus state law purports to create over 984,000 miles—almost one million miles—of "highways" in the State of Alaska, roughly 300,000 miles of which cross National Wildlife Refuges, 160,000 miles of which cross National Parks, and 137,500 miles of which cross conveyed lands of Native Alaskans.

In some states, state law may not differentiate between Federal and private lands for purposes of right-of-way claims. Deferring to state law could result in R.S. 2477 rights-of-way being granted over private property that has long since passed out of Federal ownership.

Endangered Species Act. Senator Craig's proposed amendment would provide a broad exemption from the provisions of sections 7 and 9 of the Endangered Species Act for operation, maintenance, repair and reconstruction of any Federal or non-Federal flood control project, facility or structure.

The Department agrees with the need to minimize flood damages and to protect residents in flood prone areas. In January 1997,

the Fish and Wildlife Service implemented the emergency provisions of the Endangered Species Act for the California counties that were declared Federal disaster areas to facilitate rapid and effective response to damaged flood management systems that minimize the risks to life and property. On February 19, 1997, the Director of the Service issued a policy statement further clarifying and articulating our emergency policy under the ESA, which allows disaster response measures to be implemented immediately without prior consultation with the Service under section 7 of the ESA.

The proposed amendment goes far beyond the FWS policy and the current provision of the ESA. It would waive compliance with the Act in a broad range of non-emergency situations. Routine operation and maintenance would be exempt if their purpose was compliance with any current Federal, state or local public health or safety requirement, even if there is no emergency in effect or reasonably anticipated.

Under the amendment, for example, virtually all Federal and non-Federal projects in the Columbia River basin could be exempt from ESA requirements. If these projects were no longer required to protect endangered fish stocks, such as Pacific salmon, other public agencies and the private sector would have to significantly increase their conservation efforts to compensate for the expected loss of important fishery resources that would occur. This could have severe, long-term economic impacts for the logging, mining, irrigation, navigation, water supply, recreation, and commercial fishing industries in the region.

The Department strongly supports the proper operation and maintenance of flood control facilities to avoid threats to human life and property. We also strongly support the protection and conservation of important natural resources. The proposed amendment assumes that these two goals are inconsistent and mutually exclusive. I believe they are not. As the February 19 policy statement demonstrates, it is possible to reconcile both goals, protecting human life and property without abandoning the Nation's commitment to protection of our natural heritage.

Sincerely,

BRUCE BABBITT.

Mr. BUMPERS. Now, Mr. President, I hate to read to my distinguished colleague, but it will be helpful to clarify the record about this "terrible" Babbitt policy. He did not think it was a good idea to allow the States to come in here and claim a right-of-way simply because somebody moved a few rocks out of the way no matter where it was located.

Mr. STEVENS. I want to talk to you about that, in particular, if the Senator will yield.

Mr. BUMPERS. I yield.

Mr. STEVENS. That is initiation of a highway. You move a few rocks, you cut down the right-of-way, you eliminate—it does not say "weed"—the brush, and you start to build a highway. The question before Hodel at the time was, what is the initiation of highway, not what is a right-of-way?

I say to my friend that highways today came from wagon trails. In my State, some of our highways came from dog sled trails, from the trails that were cut by people who did use horses in those days, or by people who use snowshoes when they were delivering mail on their backs with packs. Some of them were developed in the 1920's, 1930's, 1940's, 1950's, 1960's, until 1976. They are today, but we have not had the money or capability to extend the highways because there are other problems of getting to those areas before we turn them into highways. They are not different from the roads that lead to Arkansas or, as I remember my youth, the slow train through Arkansas. That is a highway now. Maybe they leave Arkansas now rather than go in as they did in those days, but what I am telling you is we are asking for nothing more than what was the process of modernization throughout the West. It was by foot, by wagon, by horse trail. Then when there were vehicles, there were vehicles.

But in our State, we have areas where vehicles have not yet been on the ground. A substantial part of our State cannot be reached by road. You know that. It can only be reached by air. We still have the process of extending those roads out into those areas so we can have surface transportation.

You cannot turn R.S. 2477 into a right-of-way over which a vehicle has gone and protect our rights.

Mr. BUMPERS. Senator, let me answer that by saying the fact that Alaska was, until recently, a frontier State, as was all of the West not too many years ago. To suggest that simply because the West was settled by pioneers who made wagon tracks or where they had footpaths where they tried to get to the West, to suggest that all of those routes across Federal lands—let me finish, sir.

Mr. STEVENS. That was Federal lands.

Mr. BUMPERS. That is the very point I am getting ready to make.

Simply because somebody drove a covered wagon or group of covered wagons over land heading west, or it was a footpath used by people who walked on it, to suggest those paths now constitute a highway, simply by mowing weeds on it, by moving a few rocks and showing that you did some construction, how foolish can we be?

Mr. STEVENS. That is the very basis of the western highway system today, those rights-of-way that went across Federal lands. The whole West was Federal land.

Mr. BUMPERS. And anything you built prior to the repeal of this law in 1976 is yours. Nobody is trying to take that away from you.

Mr. STEVENS. In 1976, Alaska was 18 years old. We were just trying to get in the Highway Act.

Mr. BUMPERS. I want to make two points, one to the junior Senator from Alaska. When he talks about how Bruce Babbitt did all of this behind closed doors last year—with no consultation—last year, the Senator will recall that we tried our very best through a public process to come up with a definition of these roads. As a matter of fact, the Secretary went through the process of trying to develop a rule as to what a road was, issued it for public comment, got over 3,000 comments, and the Senators from Alaska went ballistic and said, "No, we do not want any part of that. We are not about to let you." You remember when we blocked him from proceeding further with that.

Then you come here today saying this should have been done in a more sensible way, when it was the Senators from that side of the aisle who stopped him from doing it.

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. Yes, I yield.

Mr. STEVENS. There is no sensible way for an edict to come from Washington denying the right of a State under Federal law. I am not seeking a more sensible way. I am telling him No! No! No! You cannot do this. If we cannot get that between us, then you do not understand me. You cannot do this. This is a right of our State.

Mr. BUMPERS. The Senator has no right to complain. He says to the Secretary, "No, no, no." He should not come to this floor squawking, because he stopped the Secretary from trying to come up with some kind of a sensible rule.

So, in 1997, and I have been trying to get to this for about 15 minutes, here is the policy that the Secretary of the Interior issued. It is a good, sane, sensible policy. If the Stevens amendment on this bill stays in, he torpedoes this policy of 1997, and we go back to the abomination called the Hodel rule.

Now, you choose. If you think the Hodel rule was right—as I say, by moving a few stones, mowing a little grass, anything to try to make it look like you have been doing a little construction, or you listen to the policy developed by Secretary Babbitt, and here is the first item:

An entity wishing the Secretary or any agencies of the Department of Interior to make a determination as to whether R.S. 2477 right-of-way exists shall file a written request with the Interior agency having jurisdiction over the lands underlying the asserted right-of-way, along with an explanation of why there is a compelling and immediate need for such a determination.

Surely, nobody objects to that.

The request should be accompanied by documents and maps that the entity wishes the agency to consider in making its recommendations to the Secretary. If, based on the information provided, the agency does not believe a compelling and immediate need for the determination exists, it should, without further examination, recommend the Secretary defer processing until final rules are effective.

That is the policy, "until final rules are effective," and there is absolutely nothing wrong with that.

No. 2, "The agencies shall consult the public land records, maintained by BLM to determine the status of the lands over which the claimed right-of-way passes. If such lands were withdrawn"—that means the Federal Government took the lands out and made a wilderness area of them, or a national park or some other Federal purpose; that is what is called reserving the lands—"if they determine that these lands have been withdrawn by the Federal Government or otherwise made unavailable pursuant to R.S. 2477 at the time the highway giving rise to the claim was allegedly constructed and remained unavailable through October 21, 1976, the agencies will recommend the Secretary deny the claim."

Now, all that says is, if this was not a claim for an existing right-of-way prior to the time we repealed R.S. 2477, it should be denied. Nobody would argue with that. That is the reason we repealed R.S. 2477, was to stop the nonsense.

No. 3, "If the lands were not withdrawn, reserved or otherwise available"—now, that means that the Federal Government had not taken the land and used it for some other purpose such as a national park, "the agency will examine all able documents and maps and perform an on-site examination to determine whether construction on the alleged right-of-way had occurred prior to the repeal of R.S. 2477 on October 21, 1976."

Again, the agency will deny the claim if it had not been a right-of-way prior to the repeal of 2477.

No. 4, Highway: "The agency shall evaluate whether the alleged right-of-way constitutes a highway."

Here is the key to this whole thing. "A highway is a thoroughfare used prior to October 21, 1976."

That is the date of the repeal. An alleged right-of-way constitutes a highway if it was a thoroughfare prior to the repeal of 2477.

If the agency determines that the alleged right-of-way does not constitute a highway, the agency will deny the claim. Why shouldn't they? That is the reason we repealed it. We don't want any claims coming in on highways that were not in existence at the time we repealed the law.

Mr. MURKOWSKI. Will my friend yield?

Mr. BUMPERS. No. I will finish reading, and then I will yield the floor.

The role of State law: He says, "In making its recommendations, the agency shall apply State law in effect from 1976 to the extent that it is consistent with Federal law."

Mr. MURKOWSKI. It is Federal law now.

Mr. BUMPERS. Let me finish, please.

All he is saying is that in this ruling the State law will apply as long as it is consistent with Federal law. To do anything else, to issue a rule of any other kind, gives the States carte blanche over all unreserved Federal land. They will decide what a right-of-way is. They will decide which ones they want to build roads on.

Finally, "The agency will make recommendations on the above-described issues to the Secretary, and the Secretary will approve or disapprove of those recommendations."

Mr. STEVENS. Will the Senator yield just for one second and answer one question?

Mr. BUMPERS. All right.

Mr. STEVENS. What the Secretary is doing now concerns taking action under the Federal Land Policy and Management Act, and section 701(h) of the law is specific "All actions by the Secretary concerned * * * shall be subject to valid existing rights." By what power does he redefine now what was a valid existing right in 1976? He wasn't Secretary in 1976. What happens to the women who are out there in those small villages and cities today? They have to be flown into town to go to the hospital. It is going to take a few miles to get the roads to them. And we are going to get the roads to them, as long as we have the right to build the roads. We have the ability to deliver mail by road rather than by air. The Senator from Arkansas and others have been telling us, "Stop that subsidy for Alaska." And for their mail, it costs $100 million more a year to deliver mail in Alaska because it all goes by air rather than similar places in the southern 48 because there it goes by road.

By what right does this Secretary of the Interior determine what was a valid existing right in 1976?

Mr. BUMPERS. First, the first thing the Secretary has to do before he can approve an application is to determine whether it was a valid existing right before 1976.

Mr. STEVENS. No, he doesn't. The law is the law. There were laws in place in 1976 which defined those rights. He is now going to try to redefine the law to determine whether they were existing rights in 1976.

Mr. BUMPERS. Let me ask this question. What right does Don Hodel have to set out what an existing right was in 1988?

Mr. STEVENS. I am glad the Senator asked that question of me.

If you want to look at what happened, Secretary Hodel approved in 1988 a series of proposals that came to him from the Bureau of Land Management, the Park Service, and the Fish and Wildlife Service within his Department. He did not write that. He approved the work of a series of bureaus in his Department. It was not what this Secretary is doing. This Secretary is coming along as the Secretary and issuing an edict to change all of that. This, in 1988, was the work of long-term public servants who had great experience in managing.

As a matter of fact, if you want to look at the 1993 report to Congress on R.S. 2477 by the Department of the Interior—I have it right here—you will see that there was consultation with the Governors, there was consultation with the State directors in Utah and Alaska, the areas where there was a substantial amount of R.S. 2477 claims.

One of the things that I might add to this, my friend, is our Governor, who is a member of the party of the Senator from Arkansas, sent word to the current Secretary of the Interior that he was disturbed because he was not consulted before this was done. In the prior time, when the tables were turned and there was a Democratic Governor in the State of Alaska, Secretary Hodel did consult with him. He consulted with him. They had memos from the State. They had memos from Utah. They had memos from the BLM, Park Service, Fish and Wildlife Service, from throughout the West. That is what Hodel approved.

Mr. MURKOWSKI. Will the Senator yield on this subject?

Mr. STEVENS. Hodel approved a series of papers that were presented by those agencies, and said—his statement is a one-page statement, which the Senator has been reading. So the words that the Senator was reading were not Hodel's words. The Secretary's approval is on a memorandum from the Assistant Secretary for Fish and Wildlife, Assistant Secretary for Minerals and Management, the BLM, and it is an approval of the policy statement concerning R.S. 2477. Hodel did not develop that policy. The Department developed it. All the agencies developed it in consultation with the States involved, and with the State offices of the various portions of this Department.

So the Senator is overlooking that.

Mr. BUMPERS. The Senator from Alaska is saying that Donald Hodel, who was Secretary of the Interior, had nothing to do with the development of policy—that the Department did it. Now does the Senator separate the Secretary of the Interior from the Department of the Interior?

Mr. STEVENS. All Hodel had to do was sign his name to one page. He did not do it. It was the Department that developed this policy after consultation with a series of States and a series of agencies.

Mr. MURKOWSKI. Will the Senator yield?

Mr. BUMPERS. Everybody knows exactly why Don Hodel came up with that policy—because the Western Senators threatened him probably with death if he didn't. Everybody knows that policy was crazy. It was done for political purposes. We all know that. I am not going to debate that.

Mr. STEVENS. That sounds like something people accuse me of. I have been threatened with death.

Mr. BUMPERS. I have never accused the Senator of being political.

Did the Senator want to ask a question?

Mr. MURKOWSKI. Mr. President, I ask if the Senator from Arkansas is aware of the circumstances under which the Secretary of the Interior initiated his arbitrary decision recognizing what the law says. I have a chart here. I will ask my friend from Arkansas relative to what R.S. 2477 says. The statute's authority grants right-of-way for the construction of highways over public lands not reserved for public use. We have defined, if you will, what it means as far as a highway is concerned.

Mr. BUMPERS. Let me interrupt.

Mr. MURKOWSKI. It is defined specifically under the law as pedestrian, or a pack animal trail may qualify. The Department's own regulations in 1938, state when a grant becomes self-effective. The grant refers to the section becoming effective upon the construction or establishment of a highway in accordance with the State law. That is the law of the land, the State law over public lands not reserved for public use. "No application should be filed under R.S. 2477, as no action on the part of the Federal Government is necessary." That is the law.

What Secretary Babbitt is doing is saying you have to file. He is changing and reinterpreting the law 20 years after it was repealed.

I ask the Senator if that is not a correct interpretation of what this Secretary is doing. He is changing the law. He is saying you must file. The law says you don't have to file.

Is not that correct? I ask my friend from Arkansas. Is he not redefining the law?

Mr. BUMPERS. We repealed that in 1976. That law was repealed. We are not debating that.

Mr. MURKOWSKI. That is what prevailing regulations stated during the entire time that the act was in effect. What this Secretary has done, unlike Hodel, who met with all the other Governors—let me add for the RECORD at this time the letter from our Governor dated January 29 to the Secretary.

DEAR MR. SECRETARY: I wish to express my dismay about your issuance of a revised policy on R.S. 2477 rights-of-way determinations without consultation with the State of Alaska or, to my knowledge, other Western States. The department not only failed to seek comment or input from Alaska, it did not even pay the courtesy of informing the state that it planned such a revision. Further, the department did not even notify the state when it released the revised policy publicly.

Don Hodel didn't do that. Don Hodel met, my friend, the senior Senator said, with a Democratic Governor of my State and consulted on the policy. He did it publicly in an open process. It was the input of the Western States that brought the withdrawn definition and policy together. This Secretary changed that definition and simply suggested that it be the passage of vehicle traffic, and that is contrary to the law.

Mr. President, I ask unanimous consent the letter from Governor Knowles be printed in the RECORD.

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

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, AK, January 29, 1997.

Hon. BRUCE BABBITT,
Secretary of the Interior, U.S. Department of the Interior, Washington, DC.

DEAR MR. SECRETARY: I write to express my dismay about your issuance of revised policy of RS 2477 rights-of-way determinations without consultation with the State of Alaska or, to my knowledge, other Western states. The department not only failed to seek comment or input from Alaska, it did not even pay the courtesy of informing the state that it planned such a revision. Further, the department did not even notify the state when it released the revised policy publicly.

This initiative is troubling not only because it violates the spirit of the Congressional prohibition on further interior development of RS 2477 policy contained in last year's appropriations bill, but because it expressly revokes the department's 1998 policy that was negotiated over several months with Alaska and other Western states. The new policy undermines several provisions that were carefully crafted to the Alaska situation, for instance the definition of "highway."

Mr. Secretary, I wish to maintain a good working relationship with the Department of the Interior, but this requires a bilateral effort. I will discuss this RS 2477 issue with you at our appointment next Tuesday.

Sincerely,

TONY KNOWLES,
Governor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I don't think many minds are being changed with this debate. I don't see any reason to pursue it because we have a 180-degree difference of opinion on it. I personally think that the law is fairly clear on it. The policy of Donald Hodel is clear. He didn't consult with the public. He consulted with the two Senators from Alaska and the Governor of Alaska, and perhaps some other Senators from the West, which is understandable. The only reason I know that is not because I know it for a fact. It is just that I know he issued a policy that was very pleasing to those Senators.

Mr. STEVENS. Will the Senator yield right there?

Mr. BUMPERS. Yes.

Mr. STEVENS. Does the Senator recall who was in the majority in the Congress at that time?

Mr. BUMPERS. I know who the executive branch was. I know who the President of the United States was.

Mr. STEVENS. Hodel did not consult with these Senators because the management of the Congress was under the party of the Senator from Arkansas at that time. If there was any complaint about what Hodel did, that should be in the RECORD. At the time, the Congress did not object to what Hodel did because it was the process that came through consultation with Western States, Western Governors, with the agency's State offices throughout the West and was sent up to him by the Assistant Secretaries for Fish and Wildlife and the Bureau of Land Management up to the Secretary for approval. That is not what is happening now.

Mr. BUMPERS. I have to make this point one more time. The Senator talks about Don Hodel consulting with everybody. Bruce Babbitt had 3,000 comments from the public. Why is it that Don Hodel with a few Republican Senators and Congressmen around him developed a policy—why was that so wonderful with a few people sitting behind a closed door to decide the policy, and Bruce Babbitt gets 3,000 comments? And what happens? The first thing that happens is an amendment on an emergency supplemental, which has absolutely no business being there, to stop him from implementing a ruling. Three thousand people have commented on it.

It just depends on whose ox is being gored. We all know that.

Mr. STEVENS. Will the Senator yield for just a second? This has nothing to do with whose ox is being gored. I am surprised there are only 3,000. After all, all they have to do is press a button, and say, "Send out another 3 million direct mail pieces to all of these people that are involved in this extreme environmental movement in this country." And I would be surprised if it was only 3,000. But those people aren't the Governors of the Western States. They aren't the Senators that represent Western States. And they are not the people within the BLM and others who are professionals in this field. This is coming at us now as edict on high. This is supremacy of the Federal Government. I have to tell you. I have dedicated my life against that. I think the Senator should remember that. We have been out here before saying you can't make laws from the executive branch. It must come through Congress.

Mr. BUMPERS. Mr. President, let me just say this to the Senator from Alaska. It isn't often that I say this. But when I read the Senator's comment on this emergency supplemental and I realize what the effect of it would be, for once in my life thank God for the supremacy of the Federal Government.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

Mr. STEVENS. Will the Senator yield for just a second?

The PRESIDING OFFICER. Who seeks recognition?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I believe the senior Senator from Alaska would like to make a statement.

Mr. President, while my senior Senator addresses the Senate floor schedule, let me remind the Senator from Arkansas once again——

Mr. STEVENS. Will the Senator yield?

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

Mr. STEVENS. No. No.

Mr. President, I ask unanimous consent that at 2:10 today there be 5 minutes equally divided in the usual form prior to a vote on or in relation to the D'Amato amendment No. 145, to be immediately followed by a 4-minute time period equally divided in the usual form prior to a vote on or in relation to the Bumpers amendment No. 64, and that further, prior to the votes, no other amendment be in order to these amendments or to the language proposed to be stricken.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI addressed the Chair.

Mr. BUMPERS. I am not sure I understood that. We are going to have 5 minutes of debate on D'Amato?

Mr. STEVENS. There is 5 minutes equally divided on D'Amato. That was the request of your side, I might say to the Senator, and then a vote on the D'Amato amendment. And then there will be, after that vote, 4 minutes equally divided on the Senator's amendment to strike, and there would be a vote on the Senator's amendment. Neither will be subject to amendment after this agreement.

Mr. BUMPERS. And this will all begin when? The first vote will take place at——

Mr. STEVENS. At 2:10 p.m.

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

Mr. STEVENS. Mr. President, if I get the agreement, I will ask later that the second vote will be a 10-minute vote, but I cannot do it yet. I thank the Senator.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I think we have gone on perhaps long enough on this, but there are a few things that need to be said relative to the debate that has just occurred. And while my friend from Arkansas indicated that we had repealed FLPMA, with regard to FLPMA, I think it is important the record reflect that under Revised Statute 2477 we established and have always maintained the basis for determining the right of public access across public lands.

So that has been maintained in the law. I think it is further noteworthy to recognize that the Hodel policy recognized the historic use of a route. If it was historically a footpath, it was recognized as a footpath. If it was a wagon trail, then it was recognized as a wagon trail. If it was a wagon trail that was used in general commerce over an extended period of time, then it justified obviously inclusion under the concept of Revised Statute 2477.

In summation, Mr. President, what is happening here I think is a result of what happened as late as last year in Utah where we had a perfect example of a small group within the administration taking it upon themselves to decide for all Americans how our public lands should be used. As the debate has indicated, those of us from Alaska are particularly sensitive, as we can speak from long personal experience on this topic. All of the experience teaches us that decisions affecting the use and classification of our public lands must be left in the hands of a public process, not one Secretary of the Interior who decides on his own as a consequence of actions within the Department, without a public policy, that he is going to change the procedure unilaterally and redefine what constitutes an adequate method of transportation across public lands, and that is what this Secretary did, unlike Secretary Hodel.

Actions from this administration put the public's right to participate in the decisionmaking process, as far as I am concerned, on the endangered species list.

Mr. President, allowing this administration, and that is what the proposal from the Secretary of the Interior does, to rewrite public land law use through the enactment of regulations is much the same as putting the fox in charge of the chicken coup.

The reason we in Alaska are a little reflective upon this is the history of our State. In 1966, the Secretary of the Interior—we entered into statehood in 1959—Secretary Udall decided on his own to intercede in Alaska and simply stopped processing land selections authorized under the Statehood Act. We entered into the State of the Union with a commitment of 104 million acres. The land was being transferred to the State. He stopped the process. He did not ask anyone, just did it. In January 1969, he withdrew all public lands in Alaska from all forms of appropriation except mining claims—no public input, no congressional action. This was the so-called land freeze, superfreeze. A few other names which would be inappropriate in this Senate Chamber come to mind.

It happened again in 1978, deja vu, this time with Jimmy Carter, who stepped in and decided on his own what was best for the management of our public lands, and using the 1906 Antiquities Act he created 17 national monuments. These monuments encompassed slightly more than 56 million acres of land, an area the size of the State of South Carolina. It did not stop there. This was followed in short order by Secretary of the Interior Cecil Andrus who withdrew an additional 50 million acres. In total that arbitrary action by the Secretary of the Interior withdrew 105 million acres. That is more than the entire State of California. All this land was withdrawn from multiple use without any input from the people of Alaska, any input from the public, any input from Members of Congress.

I ask you, can you understand why we are sensitive? With all these actions held over Alaska's head, we were forced to cut the best deal we could. Twenty years later, the people of our State are still struggling to cope with the weight of these decisions. When they say you forget history, why, I say you are doomed by it, doomed to repeat it if you do not remember. So as long as we stand in this Chamber people will not be allowed to forget what happened when the public and the Congress are excluded from the public land management decisions.

When my friend from Arkansas says that this does not belong in this legislation, that it does not belong because it is not an emergency, he is absolutely wrong. It is an emergency. This is an action arbitrarily proposed by the Secretary of the Interior now. It is contrary to law, and it has to be stopped.

Mr. President, again, the fact is if R.S. 2477 was not in existence on October 21, 1976, it will not and it cannot by definition be created now. We have no problem with that. We want that to be the case. What we do not want is the Secretary to arbitrarily suddenly come to the conclusion that if vehicle travel has not proceeded over these routes prior to October 21, 1976, there is no justification for inclusion.

So in closing, Mr. President, I wish that we did not have to address this issue at this time, but it is an emergency for the Western States. It belongs on the first legislative vehicle that we can get the attention of the Congress relative to taking action. I thought we put this to an end in a bipartisan manner last year when we enacted a permanent moratorium on future actions by the Department, but that was not good enough for the Secretary. So behind closed doors this Secretary has sought to disregard the spirit and the intent of our previous action.

We have no other alternative, Mr. President, but to pursue this in a manner to continue to have available the viability of historical transportation routes that were in existence across our State, so that we can bring our State together, recognizing the huge amount of Federal withdrawal that is

evidenced on this chart by the colored areas that represent all Federal withdrawals as compared to the white areas which simply address the State holdings. So one can readily see the necessity of having the option to establish, if you will, access routes across traditional trails that existed that were dog sled routes, or footpaths, that were used for commerce prior to that 1976 date. We simply have to have the assurance that that will remain as the law of the land and we can continue to allow, after our short 39 years of existence as a State, the development of our State, we can be bound together. That is why it is an emergency and that is why I commend my good friend and senior Senator for putting this in this legislation because there is no question it is an emergency of the highest nature in the State of Alaska and certainly affects the other Western States as well as we have seen the withdrawal of 1.6 million acres under the Antiquities Act in Utah by this administration.

I thank the Chair and I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska, Senator.

Mr. STEVENS. I want to remind the Senate now, and I will do so later just prior to the vote, in this year's Interior appropriations bill, signed by the President last fall, after serious negotiation with the administration, conducted by the previous chairman of this Appropriations Committee, at my request this section was put in that bill, section 108:

> No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management or validity of a right-of-way, pursuant to Revised Statute 2477, 43 U.S. Code 932, shall take effect unless expressly authorized by an act of Congress subsequent to the date of enactment of this act.

Now, that was the compromise last year as we began this fiscal year. We believe it is an emergency when we return to Washington to find that the Secretary of the Interior has issued a policy, a statement, edict, fiat, whatever you want to call it, but he has in effect changed the law, in his opinion, purported to change the law in a way that he believes is not covered by that very strong statement:

> No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management or validity of a right-of-way, pursuant to Revised Statute 2477. . . shall take effect unless expressly authorized by an act of Congress subsequent to the date of enactment of this act.

That is this Congress. We have very clearly said, and the President of the United States agreed, that any change regarding the validity of rights-of-way shall be authorized by an act of Congress, and yet if we do not take this action that is in this bill that policy statement will guide all members of the Interior Department with regard to approval of the applications of Western States for rights-of-way under the law, a law that was agreed to in 1976 and expressly reserved all existing rights-of-way.

I think it is a very clear issue, notwithstanding all of the flak that is out there in these direct mail pieces that are stimulating every newspaper from here to Washington State. It is just too bad that editors have not learned how to read because if they would read what the law is, I do not see how they can come to the conclusions that they do in some of the editorials I have read today. I hope the Members of the Senate are not swayed by those editorials because they certainly are not based upon the law or the facts of the situation.

Mr. President, I will suggest the absence of a quorum awaiting my friend. We do have some matters that we can take care of. I might state for the information of the Senate that we have an indication from the Parliamentarian that only 33 of the 109 amendments that were filed are proper under cloture. Members should consult, if they wish to do so, the staff of either side to find out the situation with regard to their amendment. Senator BYRD and I have agreed that if we can we would like to cooperate with Members on matters that are true emergencies, particularly for those people who are from the disaster States, and there are 33 of those, Mr. President. But we are compelled to rely upon the actions of the Parliamentarian under the rule unless we can find some way to accommodate the changes that would be necessary to validate the amendments involved. So I urge Members of the Senate to determine whether the amendments they have filed prior to cloture are now valid after cloture.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

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

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

RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate stand in recess until 10 minutes after 2.

There being no objection, at 1:42 p.m., the Senate recessed until 2:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 145

The PRESIDING OFFICER. The question recurs on amendment No. 145 by the Senator from New York.

There are 5 minutes equally divided.

Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that Senator GRAHAM of Florida, Senator WYDEN, and Senator LAUTENBERG be added as cosponsors.

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

Mr. D'AMATO. Mr. President, make no mistake about it, I support the provisions that have broken the chain of welfare dependency, welfare that became a narcotic, and it trapped people. I think that our reform of the welfare system was good, intended and long overdue.

However, there have been some unintended consequences that are devastating. I do not believe we ever wanted to take 500,000 basically senior citizens and say that "you're going to be cut off," senior citizens who are here in this country legally, receiving SSI benefits, who abided by the rules, and now simply terminate them.

Let me give you a profile of these legal immigrants who received their notice of termination. Seventy-two percent of them are women. They are over the age of 65. Forty-one percent of them are over the age of 75. And almost 20 percent, or close to 100,000, are over the age of 85.

Are we really going to say that we are going to take close to these senior citizens, the vast bulk of them women, who have infirmities, who have problems with the language, and say, "Come August 22, you are off the roll notwithstanding that you came here legally, notwithstanding that you met all of the requirements"?

What our amendment does is simply say we are giving, to October 1, the continuation of assistance. And, hopefully, many of these people who have these infirmities will be able to qualify as citizens. It will give us additional time to deal with what otherwise would be a catastrophe for many of these people.

Mr. President, young, able-bodied recipients should be required to report to a job. They should be challenged. There should not be an automatic pass to welfare assistance. But certainly not the aged, the infirmed, those who need help.

We are a country of compassion. That is why I urge my colleagues to support this amendment, which is sensible.

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

Who yields time in opposition?

The time will run.

The time allocated has expired.

The question is on agreeing to amendment No. 145.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—89

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

NAYS—11

Allard	Faircloth	Nickles
Ashcroft	Gramm	Smith (NH)
Coats	Gregg	Thomas
Enzi	Inhofe	

The amendment (No. 145) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. MCCAIN.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we had 5 minutes before that vote. I ask unanimous consent that there be 1 more minute added so that we have 4 minutes on this one.

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

Mr. STEVENS. I yield 1 minute to the Senator from New York. I think every Senator would like to hear the Senator from New York on this one.

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

HAPPY BIRTHDAY, SENATOR DOMENICI

Mr. D'AMATO. Mr. President, I am just going to be a few seconds. Twenty-five years ago, a young man came to the Senate. He, indeed, has enriched the Senate with his leadership, with his integrity, and with his very presence. The fact of the matter is, he is the son of Italian immigrants and comes from the great State of New Mexico. It is Senator PETE DOMENICI's 65th birthday. Senator DOMENICI, happy birthday.

[Applause.]

Mr. DOMENICI. I want you all to know that is why I was so careful to protect senior citizens in the budget deal.

[Laughter.]

Thank you all very much. It is great to be with you. I love the Senate. I hope I am doing my share, like all of you are, to keep this a great institution and an important part of American history and our future. Thank you very much.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 64

The PRESIDING OFFICER. Under the previous order, amendment No. 64 is now in order. There are 4 minutes of debate equally divided.

Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, in 1866, Congress passed a mining law called Revised Statute 2477. Here is what it said:

> The right-of-way for the construction of public highways across public lands, not reserved for public uses, is hereby granted.

That was the law until 1976 when we repealed it. And we repealed it because there are literally thousands and thousands of potential rights-of-way, which the States could claim for purposes of building a highway across Federal lands. In 1988, Donald Hodel, who was the Secretary of the Interior at the time, established a policy. Listen to this:

> Under that policy, a right-of-way could be established by mowing high vegetation, by moving a few rocks, by filling in low spots.

The State of Alaska has passed a law making every section-line in the State a right-of-way, over 900,000 miles. Here is the kicker, Mr. President. These rights-of-way would cross national parks, wilderness areas, national monuments, and other protected areas. These highways cross all of those areas that we have since taken out of the public domain and made national parks and other reserved areas.

If we don't pass this amendment, every State—but particularly Alaska, Utah, and Idaho—will have the right to build roads on every one of those claimed rights-of-way, according to the language of the Stevens amendment. This issue is not an emergency. To hold the people in the Dakotas and Arkansas and other States hostage for something as foolish as this is, would be foolish in the extreme.

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

Mr. STEVENS. Mr. President, I yield myself 1 minute. Alaska has not even been surveyed yet. There aren't many surveyed section-lines in my State yet, except in very few portions of the State. The Nation's national parks have coexisted safely under Revised Statute 2477 for over 100 years. Our wilderness areas have not been paved, despite all the threats we have had. We have had 30 years of the Wilderness Act under Revised Statute 2477 and there has been no complaint at all.

Last fall, we put in the appropriations bill for the Interior Department this section:

> No final rule or regulation of any agency of the Federal Government pertaining to recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 shall take effect, unless expressly authorized by an act of Congress subsequent to enactment of the date of this act.

That was agreed to by the administration. The President signed that bill. It came about after negotiation with the President, as a matter of fact.

Now, by edict, the Secretary of the Interior has determined a new policy will go into effect and he will make property laws for the Federal Government establishing how rights-of-way are created on Federal lands throughout the West. It should not happen.

I yield to the Senator from Arizona.

Mr. MCCAIN. Mr. President, we have heard a very spirited debate on the issue of rights-of-way across Federal land today. Both sides are passionate.

On one hand, States worry that the Federal Government will exercise their authorities to invalidate, bona-fide historic rights-of-way. On the other hand, the Interior Department worries that States will liberally define their rights-of-way which could pose environmental threats to Federal lands, including parks and wildlife refuges.

Mr. President, I believe that there is ample room for principled compromise in this dispute. States should not be denied their bona-fide rights-of-way, nor should excess or unreason be permitted to threaten our Nation's parks and pristine areas.

Clearly this situation must be resolved, because if this stalemate persists, and the Secretary is precluded from proceeding under reasonable parameters, I don't believe we will have any official process or method for administratively assessing a claim. Such a stalemate serves the interest of no one and cannot stand.

I've been engaged in an effort to find a process by which the Secretary, Governors, and local officials can work together to determine what constitutes a valid right-of-way; what methods and standards will be used to recognize the claim, and how such rights will be managed.

I believe we can achieve a reasonable compromise and an appropriate process. While time does not permit us to

reach an agreement before we must vote now, I will continue to work with the Senators from Alaska, Senator BUMPERS, and the Interior Department to try and reach some agreement that we can all be proud of, one which will protect States rights, Federal interests and most of all the public interest.

I appreciate the Senator from Alaska's support for that effort and I look forward to working with him to resolve this matter before the conference.

Mr. STEVENS. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—51

Abraham	Enzi	Mack
Allard	Faircloth	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Conrad	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Inouye	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Dorgan	Lugar	Warner

NAYS—49

Akaka	Ford	Lieberman
Baucus	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Hutchinson	Reid
Bumpers	Jeffords	Robb
Byrd	Johnson	Rockefeller
Chafee	Kennedy	Roth
Cleland	Kerrey	Sarbanes
Collins	Kerry	Snowe
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	
Feinstein	Levin	

Mr. HATCH. I move to reconsider the vote.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

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

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

Mr. STEVENS. I move to reconsider that action.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 231

Mr. HOLLINGS. Madam President, the distinguished chairman, Senator STEVENS, and myself, Senator GLENN, Senator LAUTENBERG, Senator GREGG, and others now have worked out the Department of Commerce compromise on the census. I have an amendment that reflects that compromise at the desk, and I ask unanimous consent that the amendment be in order and the clerk be allowed to report.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. What was the request?

The PRESIDING OFFICER. The request is that the amendment from the Senator from South Carolina be in order.

Mr. STEVENS. We have no objection.

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

Mr. HOLLINGS. I thank the distinguished Chair.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. STEVENS, Mr. GREGG, and Mr. GLENN, proposes an amendment numbered 231.

Mr. HOLLINGS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 47 strike lines 14 through 18 and insert the following:

SEC. 303. None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to make irreversible plans or preparation for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the States.

Mr. HOLLINGS. Madam President, what it allows is the Census Bureau to continue to plan to conduct a census that uses statistical sampling but the Congress under the leadership here of the distinguished Senator from Alaska, and our chairman and ranking member of the Governmental Affairs Committee, which has jurisdiction as the authorizing committee, can change that in the future after careful review and oversight.

There is a deep misgiving among some of the Members with respect to any kind of taking of polls or handling of numbers or statistics particularly after somehow the Immigration and Naturalization Service at the Department of Justice naturalized a million immigrants to be able to vote last November. And so it is natural that they wanted to make certain that the statistical sampling related to the year 2000 census be taken in a totally professional manner. We have it, we think, on course to be as professional as it can be. Ms. Riche and the professional staff at the Bureau of the Census are just outstanding.

What the Members need to understand that what really occurred after the 1990 census was it became clear that all kind of undercounting and overcounting occurred, varying in areas. The undercount was especially severe among low-income people, minorities, and rural areas. Congress told the Census to find a way to conduct the next census in a more accurate way at less cost. The Census Bureau went to the National Academy of Sciences. The National Academy of Sciences, after a thorough study, says go ahead, send the forms out, which are really reported back about some 60 percent or so. We get another 30 percent by going around door to door, through telephone calls, and followup. That last 10 percent is next to impossible in some places to find, in the innercity, in the rural areas, and in areas with high native American populations. Some of the census takers themselves—we got some 300,000 earning around $13 an hour—they might get fatigued some afternoons or near a weekend, or not be willing to enter into some areas or buildings. The way it was handled in 1990, the followup was far too subjective.

So the Academy of Sciences looked at, studied, and have had the best of minds in a bipartisan fashion—this has not been a partisan issue—and they recommended that census find a new way to estimate those hard to reach populations. They told census to use the same statistical methodologies that the bureau uses for all its products that this Nation relies on. They recommended to go ahead with this kind of sampling advancing forward to take the census for fiscal year 2000.

We really were disturbed in the Appropriations Committee that if we did not allow it to continue at this particular point—this is absolutely not final, of course—that we were going to set a course whereby we were going to have to spend another half a billion bucks trying to go door to door with the same ailments and disturbances and inaccuracies that we suffered back in the 1990 census. And we would end up not only paying more but getting back

into court with lawsuits again and everything else of that kind.

Mind you me, there is over $100 billion in Federal programs allocated according to this census data, the Members of the House of Representatives are apportioned according to this census, and we want to be as nonpartisan and as thorough and as scientific as we can possibly be in its taking.

To the credit of the Governmental Affairs Committee, which is the authorizing committee, they have been working diligently on this issue. Our distinguished chairman, Senator THOMPSON of Tennessee, I have talked with him, and our ranking member, Senator GLENN. They have already experienced two hearings which have more or less confirmed that we are on course, but they have yet to finalize any action taken this particular year.

So what we wanted to do at the moment in this particular emergency supplemental was not stop anything but express our outright concern that this particular census is not to be used politically. It has to be done professionally.

I thank the distinguished chairman of our Appropriations Committee, Senator STEVENS, and his distinguished staff for going along working with the Department of Commerce and myself all last evening and this morning. I think this particular compromise here will allow us to continue on course but not lock in the short form irrevocably. Census can continue to do its planning and dress rehearsals to ensure that the next census is more accurate.

With that said, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Madam President, I commend my colleagues, Senator STEVENS and Senator HOLLINGS, for working out this amendment, because it will let the Census Bureau proceed with planning and testing of statistical sampling.

We need the best possible information before making a final call on the design of the 2000 census. The language we have agreed upon, as my distinguished colleague from South Carolina has just said, will let us get that information and get it in good shape, I believe. Thousands of Americans are waiting for the disaster relief to be provided by the legislation on the floor today, and they need this money to rebuild their homes and their lives. I am very relieved we are working together to get this aid to those needy people.

I know full well the Census Bureau's plan to use sampling is highly controversial. I do not like sampling any better than anybody else. The only problem is, there is no better way to get a more accurate count of all the people in this country than by using all the regular procedures we have used before plus the sampling. There is no better way, even though none of us like it. We wish it were a perfect situation where we could go out and count every single American, just like the Constitution says we are supposed to do. But, as Senator HOLLINGS said just a moment ago here, you cannot do that. We normally do not get full returns on all the census reports. We wind up traditionally with about 10 percent of the people not sending returns back, even though census takers call multiple times on their domicile or their businesses. So we wind up having to do some sampling to get a more accurate census, and that is what the whole thing is all about.

So, it is controversial. Some people say the sampling does not meet the constitutional requirement for an actual enumeration. Those are the words, "actual enumeration," in the Constitution. Some say sampling is inherently subjective because it is based on statistical assumptions, as it has to be.

We have been arguing about this ever since 1990, when post-census surveys showed that 1.6 percent of the population had been missed. That may not sound like a big figure, but it is big if you are laying out plans for Federal appropriations that have to apply to these certain areas. The Bush administration decided finally not to use sampling to adjust that census. They decided the census statistical adjustment plan had too many problems. Here we are 7 years later. I must admit that, like my colleagues on the Appropriations Committee, I, too, have some reservations about sampling.

But we have to remember that the Census Bureau is not looking at sampling because they think it is the ideal method. Quite the contrary, an accurate, direct count would be the best. The problem is, a direct count has never worked in the past. And every census is more difficult than the last one. That is because our population keeps getting larger. It is more mobile. It is more culturally diverse, while public cooperation keeps declining. That is why the bureau is looking at new approaches.

A complete sampling ban would require the bureau to cancel current testing plans and contracts, and that would just waste money that has already been spent for good purposes.

A complete ban would require hurried development of new plans for next year's Census Dress Rehearsal. That would waste more money. Finally, a complete ban would require hurried development of a new plan for conducting the 2000 census. That would require many more census takers and would cost a lot more money. This is the tragic part, it might lead to a much less accurate census, more litigation, and more suspicion of Government. The language we have worked out prevents all that waste and keeps all our options open. At the same time, it lets the Census Bureau know the seriousness of our concerns.

Let me tell you a little bit about the 2000 census—something the Governmental Affairs Committee is looking at right now. The census will set a new record as the largest peacetime mobilization in American history. The Bureau will hire 600,000 temporary workers, knock on 120 million doors, and count about 270 million people.

By statute, the entire process has to play out smoothly over 9 months. The questions will begin on Census Day, April 1, and the results have to be given to Congress by December 31. Census Bureau officials tell us that, if they use sampling, they can keep the cost of the 2000 census down to about $4 billion, a little less than the 1990 cost of $25 per household. Without sampling, it will cost the taxpayers a whole lot more—perhaps as much as another billion dollars.

Most important of all, the census is a highly serious enterprise. It is the process we use to make sure that every American—every American—is fairly represented in the governing of this great country. It is so fundamental to our democratic system that the Constitution specifically requires an actual enumeration of our population once every 10 years.

These facts tell me that the decennial census calls for our very best thinking, our very best planning, and the very best scientific tools the statistical community has to offer. To quote the Commerce inspector general:

> We continue to believe that, if carefully planned and implemented, sampling can be employed by the Bureau in the 2000 census to produce overall more accurate results than were produced in the 1990 census, at an acceptable cost. We further believe that the Congress should allow the Bureau the freedom to complete its work on sampling and then select the optimal census design based on all of the available information. According to the bureau's plan, fundamental work on all potential uses of sampling will be finished by December 1997. We do not believe an informed design decision can be made until this work is completed and the various design components are tested during the April 1998 dress rehearsal.

I think the Commerce IG gave us some very good advice, because some hard facts have begun to emerge from the wealth of opinion about sampling.

Fact: The Bureau has been using statistical sampling in the decennial census for decades. The census long form—which goes to only one in six households—is a perfect example of a kind of sampling that is widely accepted. If Congress bans sampling completely, we will not be able to use sampling for the long form any more. But the information gathered by the long form is still required by law. So we will have to send the long form to every single household across the country. And the American taxpayers will have to foot the bill.

Another fact: It is inherently impossible to count everybody correctly the

traditional way. All the experts agree on that. There will never be enough time or money. There will always be people not at home no matter how many times the census taker calls. When President George Washington received the first census data in 1790, he also got an estimate of the undercount. That has been the story ever since. In 1990, the census missed 10 million people. It counted 6 million people twice. And it counted another 10 or 20 million people in the wrong place. After that experience, everyone involved agreed that a better plan, a scientific plan, had to be developed for 2000.

Another fact: The undercounted people are some of the most vulnerable in our society, minorities, poor people, both rural and urban, the non-English speaking, the homeless. These are the people we are excluding from the democratic process.

Still another fact: Virtually all statisticians say that our scientific tools have been developed and tested to the point that we can finally fix the undercount problem. That view is supported by GAO, the Commerce IG, the National Academy of Sciences and a host of other professional organizations.

Yes, 1990 sampling methods were flawed. That is precisely why the Census Bureau has spent 7 years developing a reliable plan for 2000. It is precisely why the Census Bureau needs to keep testing and planning, and it needs to go on with that right now and not have it cut off.

What about the constitutional arguments? On April 16, at one of our committee's two recent hearings on the census, we heard testimony from Wisconsin's Attorney General James Doyle. He led the charge against sampling in 1990 because statistical adjustment of that census would have given California an additional House seat at Wisconsin's expense. Mr. Doyle testified recently:

> I think the Constitution requires that we make the best effort we can to an actual headcount, and I recognize that is a very complex task, and I recognize that within that task, we have to leave a good deal of discretion to the Census Bureau to, in fact, make some counts where you are not actually counting actual human beings.
>
> For example, you go to a locked apartment building and you go back there 5, 6, 7 times. At some point, somebody has to make a reasonable estimate on how many people are in that locked apartment building, and there are other kinds of procedures that the Census Bureau has built up over time to try to build that accuracy.
>
> So I recognize that there has to be a good deal of discretion given to do things other than summon everybody to Bethlehem and count how many people are there.

At the same hearing, we also heard testimony from Stuart Gerson, the Assistant Attorney General who advised the Bush administration not to adjust the 1990 census.

Mr. Gerson said, and remember, this is a person who advised against sampling in the Bush administration:

> Whatever an enumeration means, it does mean an accurate count and that should be our guideline—it does appear that the Constitution would permit a statistical adjustment if it would contribute to an accurate count.

Note the caveat: "if it would contribute to an accurate count." Both of those legal experts agree, and again, one of them led the fight against adjustment in 1990, that the key to the constitutional requirement for an "actual enumeration" is accuracy. They both agree that sampling is legally acceptable under two conditions: The Census Bureau has to make a good faith effort to count everybody the traditional way; and the Bureau has to demonstrate that sampling improves accuracy.

Let us look at whether the Census Bureau's plan can meet those requirements. The plan itself was described in our committee hearing of March 11. We heard from Commerce Secretary William Daley, from Ev Ehrlich, the Commerce Under Secretary for Economic Affairs, and from Martha Richey, Director of the Census Bureau. As they explained, the first proposed use of sampling is to help count people who don't send back their census questionnaires by mail. The Bureau won't even start this sampling until after they have first made the greatest effort in the history of census-taking to convince Americans to send back their questionnaires.

First, questionnaires will be mailed to every household found on the combined Census/Postal Service national address list. To insure the most complete national address list possible, the Bureau will also get several updates from local governments. Every household in America will get precensus letters and post-mailout reminders. Questionnaires will be available in town halls, post offices, community centers, and even stores. And finally, the Bureau plans an aggressive outreach campaign of school presentations, community meetings and paid advertising—all to give every single American every possible opportunity to participate and be counted in the time-honored way. I would say that passes the first test of constitutionality, a good faith effort to do an actual head count.

Even with all this effort, experts project that only 65 percent of the American public will be counted using these methods. Our population is just too big, too mobile, too diverse, and too apt to ignore Government requests for information—even when it is this important.

The question for the Bureau is, how do we count that last 35 percent? As the lawyers have told us, the Constitution and Federal law require our best effort.

The census plan is to follow up the mail process with a large sample of those who did not send back a questionnaire. That sample will be large enough to make sure that census takers contact at least 90 percent of the people in each census tract. Yes, that means census enumerators will go into communities, just as they always have, to count at least 90 percent of Americans in the traditional way, by headcount. Then, and only then, will statistics be used to estimate the last 10 percent of the population.

What about the second constitutional requirement? Can the Bureau demonstrate that sampling improves accuracy? At our second oversight hearing on April 16, we heard testimony from Prof. Lawrence Brown of the Wharton Business School. He strongly opposed adjustment of the 1990 census based on the sampling plan the Bureau used to generate the "corrected" counts. Professor Brown didn't think the Bureau's sample was large enough, and he didn't think the statistical model was valid. But he told our committee last month that the Census Bureau's plan for 2000 addresses the concerns he had in 1990. He told us the Bureau's plan can work. And he told us we will again have an undercount if we do not use sampling.

On the charge that sampling is inherently subjective, Professor Brown said:

> Certainly, there is some subjectivity in how the process is designed and how the analysis is—conducted. But if all of this planning is done in advance, it is very very hard for me to see how one could direct these subjective decisions towards any desired goal.

Notice the caveat: "if all of this planning is done in advance. * * *" That is just what the Census Bureau proposes to do over the next year. And this new language we have agreed on today will permit that work to move ahead and still give Congress the final decision.

As Professor Brown's testimony proved—even for experts who questioned sampling in 1990—the Census Bureau seems to be on the right track for 2000. At this point in time, it is very hard to find even one statistician who doesn't think that sampling should be able to improve the accuracy of the 2000 census. The Bureau is doing its research; it is testing its plans; and it is having its plans reviewed by experts.

Everything the Governmental Affairs Committee has learned so far tells me we need to keep the sampling debate open. And we need to give the Census Bureau a fair hearing. To disrupt the planning process now would set the Bureau back a year or more. And it would lock the Bureau and the Congress into a traditional census that we know will cost much more and we know will be inaccurate.

I have already told you that I have some personal reservations about sampling. I wish it were possible to get an actual head count directly on every

single American. I am sure the American public has concerns as well. We all get survey calls at home, around dinner time, usually. We also know about polls—surveys that conclude one thing or another—often depending on who paid for the poll. We know all this. We know that surveys can be used in many different ways. So, we have to agree that the Census Bureau has a very heavy burden to prove to Congress and the American people that its survey methods are objective and scientifically sound, and that they will produce accurate, reliable information. The Constitution requires no less.

What is critical right now is for census to continue its planning process—continue to appear before congressional committees—as it is doing before our committee—and continue to explain and review its plans. Only after this process is complete can we decide if the 2000 census will be a success.

At this point in the debate, I am less worried about the constitutional and scientific issues than I am about the Census Bureau's management capacity. GAO and the Commerce IG agree with me on that. The viability of sampling depends on the Bureau's capacity to design and faithfully execute a good plan. Our debate here today proves that Congress is not yet sure of the Bureau's abilities.

The Bureau has to give us more information. And we have to be willing to listen. The Bureau also has to show us that they have the management capacity to carry out a sampling plan if we approve it. These are the questions I think we should be focusing on.

It is time for some plain talk—about the stakes involved here. Most of those people undercounted in last census were poor, and many of them belong to ethnic and racial minorities. We cannot tolerate any undercount. Our system of government guarantees equal representation for all Americans—regardless of race, ethnicity or economic circumstances—certainly regardless of political affiliation. I can only hope that my colleagues will not trade off this fundamental principle of democratic government for assumptions about partisan political advantage.

Let me remind you about where the undercount is found. Look at the States that had high undercounts in 1990—New Mexico, 3.1 percent; Montana, 2.4 percent; Texas, 2.3 percent; Mississippi, 2.1 percent; Idaho, 2 percent. This is not a Democratic versus Republican issue. The undercount is a problem for every Member of this body. We undercount people in rural areas—that is a third of the 1990 undercount. We undercount people who are renters rather than homeowners. And we undercount over 12 percent of native Americans who live on reservations.

Let's not throw away our opportunity to fix the undercount, without taking a good hard look at whether we have to and what are our options. Funding formulae, equal protection, civil rights, State and local planning, school building, targeted aid, business planning—almost every aspect of American life—would benefit from the best possible census in the year 2000.

My heart goes out to all the Americans who are counting on us for the disaster relief this bill will provide. I want go give them that relief. I want to vote for this bill. So, I strongly urge my colleagues to join me in supporting this amendment. I congratulate Senator HOLLINGS, Senator STEVENS, and their staff for working this out. Let the Census Bureau get on with planning what could be the best census, the finest census in American history. And let us get on with providing relief to those tens of thousands disaster victims who are counting on us.

Madam President, I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Chair.

Madam President, I commend and agree with my colleague on the Governmental Affairs Committee, Senator GLENN, with regard to the purpose of the census and how important it is. I commend Senator HOLLINGS and Senator STEVENS for working out some language that will get us over this temporary hurdle and will not cause us to have to stop in midstream and make a decision today as to exactly what we ought to do, because I do not think anybody knows exactly what we ought to do right now. I do not think attention has been focused on this issue.

We in the Governmental Affairs Committee, however, have been focused on it for a while. When I became chairman, we had a meeting on the staff level and started to engage the people at the Census Bureau and the Department of Commerce and explained to them what our intentions were in terms of having hearings and gathering information as to the right way to proceed.

We have had two hearings, as Senator HOLLINGS has pointed out, considering specifically these sampling issues that we are talking about, keeping in mind how important it is.

It is important that people have confidence in this census. Clearly, we base a lot of things on it in terms of distribution of Federal moneys, academic research, and things of that nature that are dependent on it, and last, but not least, the apportionment for the House of Representatives. So we need to do it cautiously and carefully and not based on who is going to benefit politically in the outcome, not based on some supposition of what the outcome is going to be.

I made a commitment early on that we would hear this fairly, we would bring in the experts and proceed carefully, but that the administration was going to have to convince us and the American people that the way they were going to proceed would be a fair, objective way. Of course, that brings us to the heart of the sampling issue, and it is not an easy issue to resolve. In fact, I think we are right in the middle of resolving it. We have asked for a lot of additional information in order that the Census Bureau can convince us that this will be done in the right way.

Everybody is for doing something about the undercount, which I think most people agree that we have. We need to do something about this. We need to proceed in the fairest, most objective way in order to address that particular problem.

But the question still is out there whether or not sampling is the right way to proceed. In the first place, I think we need to realize that the proposal that is on the table now really involves two levels of sampling: 90 percent is contact directly, 10 percent is sampling, and then there is another level of sampling which is supposed to take care of the undercount. So we have a couple of different levels of sampling. It has not been perfected yet.

Back in 1990 when they did the census, they considered adjusting the census numbers based on sampling. Based upon the information that they initially had there, they made an error of one seat. One State would have improperly gotten a seat and another State would have improperly lost a seat. They caught it in time and decided not to use sampling back then.

There are constitutional issues; there are legislative issues. It is not just a constitutional question. We are familiar with the fact that the Constitution requires, in some people's minds, an actual head count. It is somewhat debatable, but to some legal experts, it is even a greater question as to whether or not Congress has constructed a legislative pattern that would forbid sampling.

There has been a lot of sampling legislation passed and some of it is inconsistent. It would be a tragedy, indeed, if we went through all this process and we used sampling and spent $4 billion in order to carry this out and then find out we did not have the constitutional authority or that we have the constitutional authority but did not have the legislative authority. So if we go through with sampling, I think we are going to need additional legislation to clear that up.

There is another question involved as far as the expense. Some of the witnesses originally told us that if we did not sample, it would cost us an extra billion dollars. We are getting information now which says the cost would be much less than that. We need to clear that up.

I think this is an appropriate way to proceed, but I want to emphasize to the administration, and I want to emphasize to the Census Bureau, that those of

us who will be dealing with this thing directly are going to be looking to them to convince us and convince the Senate and convince the American people that they will conduct this thing in a fair and objective way. A lot of people are concerned that this administration, which has shown in times past the willingness and the ability to use the authority of the administration for political purposes—witness the Immigration and Naturalization Service before the election last time—that an administration that is willing to do that would be willing to tamper with this process.

It is a matter that is somewhat new to us in this body for this particular purpose—that is, one of apportionment—and it is not going to be something we will readily latch on to. I am not saying it is the wrong thing to do, but I am saying the burden is on the administration, the burden is on the Census Bureau, not only that this is scientifically acceptable, which I think a lot of people think it is, but, second, that we are not going to have to be worrying about some people in a bureaucracy somewhere who are going to be having their fingers on the scales of justice, as has happened in other instances.

So, with that, I leave it for another day. I look forward to working with the members on the committee and others on the Appropriations Committee in trying to come up with the best system that is fair to everybody, not based on who benefits or who suffers from a political standpoint, but based on what is fair and accurate, not only in terms of the result, but in terms of the process in getting to that result.

With that, I thank the Chair.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, the amendment that Senator HOLLINGS has presented is acceptable, and I am pleased to cosponsor it. It is a provision that I put in the bill, or I offered as an amendment to the bill when it was in committee.

A full count of the population for the purpose of apportioning seats in the House of Representatives is required by the Constitution. Article I calls for an "actual Enumeration * * *" and section 2 of the 14th amendment reads: "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State * * *". Title 13 U.S.C. section 195 states: "Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as "sampling" in carrying out the provisions of this title."

When the Secretary of Commerce declined to approve a statistical adjustment to the 1990 census, at least 50 law suits were filed. The Supreme Court upheld the Secretary's decision in one of these cases, Wisconsin versus City of New York. The Court held that the Constitution "vests Congress with virtually unlimited discretion in conducting the 'actual Enumeration' * * * Through the Census Act, 13 U.S.C. section 141(a), Congress has delegated its broad authority over the census to the Secretary." The Court noted that the adjustment being recommended to the Secretary in 1990 differed from other statistical adjustments used in 1970 and 1980 because it "would have been the first time in history that the States' apportionment was based upon counts in other States."

If a sample is employed for the 2000 census, endless litigation challenging the constitutionality of using this technique is likely. By directing the Census Bureau today to employ a full count, we are giving the Bureau sufficient time to redirect their efforts before 2000. The additional cost of a full count is estimated to be $400 million. The increase is bound to be less than the Government's cost of defending against lawsuits which will result from using a sample.

There is also an issue of fairness. The Census Bureau will get a 90-percent count of a census tract and use sampling to determine the remaining 10 percent of the population in that census tract. An estimation does not seem to be a fair way of determining the population.

The Census Bureau has claimed a full count of the population without sampling will cost an additional $400 million. As soon as this amendment prohibiting the use of sampling appeared, the cost went up to $1 billion.

I have reviewed the most recent Census Bureau cost sheet, and it seems to me the Census Bureau can do a full count well within the range of $400 to 500 million. Any attempt to claim it will cost a billion dollars is a red herring to deflect attention away from the real issue, and that is the constitutionality of conducting the count by sampling.

The cost of the census should not be an issue. Under the Constitution, Congress has the duty to direct an "actual Enumeration" of the American public for purposes of apportionment. When carrying out our constitutional responsibilities, cost is immaterial.

In 2000, The Census Bureau wants to estimate 10 percent of the population of this country. In 2010, the Census Bureau may want to estimate 30 percent of the population. The Census Bureau claims sampling will solve the problem of undercounting. It is difficult for me to accept that an estimation will ensure everyone is counted.

Concern about not counting all Americans is not a new issue. Then-Secretary of State Thomas Jefferson was in charge of the first U.S. census in 1790, and he was gravely concerned that there had been an undercount.

The Census Bureau, in an effort to devise new techniques to ensure the most complete count possible, has determined that conducting a sample of nonrespondent citizens on a census tract level is the most effective means of achieving numerical accuracy. Which is more important? Numerical accuracy or distributive accuracy?

On March 20, 1996, the Supreme Court held that distributive accuracy was more important than numerical accuracy in deciding Wisconsin versus City of New York. In this case, the Court upheld the Secretary of Commerce's decision not to approve statistical adjustment to the 1990 Census. The Census Bureau plans to sample in each census tract across the Nation. They plan to estimate who lives in a neighborhood or village based on a sample.

The Census Bureau claims the language in this bill as reported from committee will require them to send a long form to all households.

The Census Bureau says sending a long form to one out of every six households is a sample, and thus the language in this bill would require them to send the long form to all homes. The language in this bill was not intended to prohibit the Census Bureau from using the short form. I would have no objection to amending the language to ensure the Census Bureau can continue to use the long and short forms.

The question arose: what would happen to a census form that was mailed in late, after the Bureau had begun a post-census sampling process? The original answer was that the late response would be discarded because it would interfere with the sample established by the Census Bureau. Since the actual enumeration of citizens has a long and venerable history, this answer was a shocker.

The Bureau now says that a late response will be counted, even if it came from a household that was not in the followup sample area. They admit this will complicate the estimation process. Obviously the inconvenient appearance of a real person's response does damage to a theoretical sampling construction.

The Governmental Affairs Committee has held two hearings on the plans for Census 2000, including one exclusively on the legal and statistical propriety of using sampling. There are many troubling questions about the Census Bureau's plan to implement sampling techniques in the next census.

The problem of undercounting in the cities has been a problem, and the Bureau says sampling will help correct this undercount. But what about the problem of undercounting in rural areas? Does the Census Bureau really

know what it doesn't know? We are asking to take the remainder of this year to scrutinize the Census Bureau's plans for the next census, and particularly their plans to use sampling techniques.

Sampling could well be inaccurate, illegal, or unconstitutional. Congress must decide whether sampling is consistent with the Constitution's requirement that the census should be an "actual Enumeration" of the American public for the purpose of providing a basis for apportioning Congressional representation among the States.

In the 1990 census, the Bureau made extensive efforts to reduce the undercount of actual persons. It sought out "traditionally undercounted populations" and expanded assistance for non-English-speaking residents. But there was no plan to create hypothetical respondents, although there was an effort to statistically adjust the total. This adjustment was ultimately rejected by the Secretary of Commerce.

That is the problem now. The sampling would be the basis for an educated guess under the proposal that was presented to us. I am pleased to see the text has been modified so what we are concentrating on is the constitutional requirement to enumerate the population for the next census, and on that basis, I support the amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, when it comes to sampling, I think everyone should understand that we are very familiar with it. Almost every product put out by the census, or from data supplied by the Census Bureau is based on sampling. We quote the gross domestic product. The Federal Reserve, Alan Greenspan and others use GDP and inflation statistics based on very small samples. The monthly unemployment rate that all the members listen for. Well, that is based on sampling of some 60,000 household of the 115 million households in this Nation. That is less than 1 percent. And, with the full decennial census, the Bureau has been using sampling for the long form for almost 60 years.

And if there is one group that really believes in sampling, it is Members of Congress. We come here with a poll taken, every one of us. And for a State my size with 3.5 to 4 million people, a sample of 870 to represent that number of people is readily considered authoritative. So we are doing the best and we are doing it professionally. I believe that we are on course now with this particular compromise.

Madam President, I ask unanimous consent that my complete statement be printed in the RECORD.

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

STATEMENT BY SENATOR HOLLINGS REGARDING THE CENSUS

Madam President, the bill before us is an emergency supplemental appropriations bill to deal with flooding, other natural disasters, and support for our troops in Bosnia. It also includes a provision that was inserted by the majority that prohibits the Census Bureau from using funds to conduct or plan to use statistical sampling in any way in the conduct of the year 2000 decennial census.

The census of the United States is required under Article I, section 2 of the Constitution. Since the original census in 1791, it is a basic government function that is performed every ten years. To many in this body it probably seems like a dry, academic subject. The census is about data and numbers. It is the sport of demographers and statisticians.

Yet, the census impacts Americans' daily lives in so many ways. Clearly, as noted in Article I, it is the basis for apportionment in the House of Representatives. It also has become the basis upon which over $100 billion in Federal program aid is allocated. Programs from Low Income Energy Assistance to Community Development Block Grant to Transportation grants all rely on census data. But, the census also is the main vehicle with which we are able to describe the characteristics of our democratic society. It tells us how many men and women live in each State and in our nation. It tells us about racial diversity and employment and literacy. Having accurate and unbiased population and economic statistics is a basic requirement for a democratic nation as diverse and geographically varied as the United States.

CENSUS HAS STRIVEN FOR MORE ACCURACY

The history of the census has been one of progressively seeking more detailed information about our people. And, it is a history of striving for more accuracy in the accounting for the residents of this nation.

The Senators who put this prohibition in the bill seem to think that by proposing the use of statistical sampling to aid the census enumeration, that the Census Bureau has broken new ground. Well, that's just not the case. The accuracy of the census was brought into question with the very first census. When Thomas Jefferson transmitted the census data in 1791, he also provided his own estimates. He stated that "we are upwards of four millions; and we know in fact that the omissions have been very great." You might say that he provided the first "post enumeration survey." Through much of the 19th Century, the Census was run by Marshals who reported to the U.S. Senate. They didn't have standard procedures and census forms did not exist until the 1830's. In fact, the Census Bureau itself was not created until 1902.

Statistical sampling dates back to 1940. In that year Dr. Demming, the noted management expert who once worked for the Bureau, proposed the use of sampling in the conduct of census. It was adopted to reduce the number of Americans who received detailed questions that we now call the census Long Form. Similarly, the issue of undercounting the poor and minorities always has been a problem. When this nation adopted the draft to prepare for the Second World War, the census first realized the magnitude of this problem. When the call went out to serve the nation, we found that 3 percent more men were in this country than the Census Bureau had estimated in the 1940 decennial census. Among black males, 13 percent more showed up to the call of duty than the census said even resided in America.

Relative to statistical sampling, it is used in almost every type of data that the Census Bureau collects and uses for its products. It is used in the Long Form so that only 1 in 6 Americans are asked detailed questions about employment, housing, family background, etc. A very small sample is used to get economic data every month so we can tell Alan Greenspan and Wall Street if Gross Domestic Product increased, or if inflation has increased. Take unemployment. Every month every Senator listens to what the monthly unemployment rate is. "It's about jobs" as our former Trade Representative Mickey Kantor would say. Well that unemployment data is collected by the Census Bureau. It is based on a survey of only 60,000 households out of 115 million households in this country. That is a sample of far less than 1 percent! So with this census issue, let's not act as though the use of statistical sampling is something new or some gimmick adopted by the census. The fact is that our Census Bureau is the Federal Government's premier statistical agency.

THE 1990 CENSUS DEBACLE AND STATISTICAL SAMPLING

Now, the current situation we find ourselves in is an outgrowth of the 1990 census debacle. The 1990 census was the most expensive census we had every conducted and for the first time it was LESS accurate than previous censuses. It is widely acknowledged that it was seriously flawed. Nearly 10 million people were NOT counted and 6 million people were counted twice. There were lawsuits by groups that were undercounted. Suits that ended up in the Supreme Court six years later. So Congress told the Census Bureau to figure out how to do a census that is: (1) more accurate and (2) more cost effective.

The Census Bureau did the right thing. It went to an outside group of experts. They went to the National Academy of Sciences in 1993 and asked for their recommendations. The Academy studied the issue and recommended that the Census Bureau incorporate statistical sampling in the conduct of the year 2000 census. The academy concluded that a rerun of the 1990 process would produce even less accurate data in the year 2000 and would cost more per household, primarily because voluntary citizen cooperation with the census is declining. They concluded that traditional census taking methods will always yield a differential undercount because some populations are just hard to count, such as rural and inner city poor people. The Academy recommended, in fact, that the Census Bureau continue to work until it achieved a 70 percent response from residents and then use statistical sampling for the remaining 30 percent.

The professionals at the Census Bureau adopted the Academy's recommendation—a well designed statistical sample to correct over and undercounting before the census counts are finalized. The only change they made was to reduce the amount of sampling. They concluded that they would work until 90 percent of residents were counted and use direct statistical sampling to estimate the remaining 10 percent.

Now, Madam President, I think there is a great deal of confusion on how the census is conducted and what is meant by these numbers. The Federal Government sends every resident a census short form. The Census Bureau makes extensive efforts to get these forms returned. Approximately 65 percent of the population does so. After that the greatest expense of the census comes into play. The question is how much effort and how much do we have to spend to get people to respond who have not sent back their questionnaires. The Census Bureau makes phone

calls, goes door to door, and literally employs an army of 300,000 census takers to find individuals and households who did not respond. In the past, one of the reasons for inaccurate counts, is that finding those "hard core" of non-respondents is quite subjective. It isn't easy. These are in remote rural areas and in poor urban areas. It is commonly acknowledged that follow-ups are not conducted in a scientific fashion. It is a well known fact that census takers would rather falsify data than go into some of those areas.

In the case of the Census Bureau's plan, they are proposing to estimate those remaining 10 percent of impossible to reach non-respondents. They are proposing to do so in a scientific way that is statistically reliable. It is a methodology that takes subjective judgement out of the process.

THIS AMENDMENT CASTS A WIDE NET

The amendment in this bill not only prohibits the Census Bureau from moving forward with its statistical sampling plans I've discussed, but it also casts a very wide net and prohibits all other statistical sampling. It would prohibit the Long Form from being sent to 1 in 6 Americans. This type of sampling has been underway for almost sixty years. So, the Census lawyers tell us that every American would have to be sent the Long Form under this congressional prohibition. It would prohibit the Census from working with the Postal Service and sampling to find vacant housing units that are currently on address lists. It would prohibit the Census from carrying out statistical sampling in its dress rehearsals that are now underway. It would prohibit the Census from planning to do quality assurance samples to ensure that census data is not falsified by census takers. It is, in short, a clumsily worded amendment that is quite far reaching in its consequences.

Now during our debate in Committee, the Chairman criticized the Long Form. I believe the gist of what he said was that the Long Form asks too many questions of too many people. Well, Mr. President, I'd like to know which questions. Questions about industry were added in 1820. Veteran status in 1840. Education in 1850. Housing in the 1930's and 1940's. Income level in 1940. We added a category to determine if a respondent considered themselves to be of Hispanic origin in 1970. Telecommunications questions began in 1980. In each case these questions came about because Congress directed them in statute.

ISSUE BELONGS WITH THE AUTHORIZATION COMMITTEE

This amendment doesn't belong in an appropriations measure, especially an emergency appropriations bill. It belongs with the Committee of oversight, the Governmental Affairs Committee. Now the irony is that the Senate Governmental Affairs Committee has been, in fact, holding oversight hearings on the year 2000 decennial census. They have heard from a number of outside witnesses and they have been hearing the pros and cons on statistical sampling.

Senator Glenn has written to Senator Stevens and Senator Byrd requesting that his Committee be allowed to continue to do its job. That the Appropriations Committee not interfere. He is right.

INCREASES COSTS

What the Appropriations Committee should be concerned about regarding this issue is the cost. The irony is that the amendment inserted by the Chairman will greatly increase the costs of the year 2000 decennial census. The current estimate for the total cost of the 2000 census is $4 billion! If the Census Bureau is required to make a full enumeration effort and NOT allowed to sample for 10 percent, then the costs will increase to $4.4 billion to $4.5 billion. That's because we will keep on the payroll that army of door-to-door census takers who will make around 13 dollars an hour.

The Commerce Department tells us that if you look at the cost impact of all the ramifications of this prohibition, including prohibiting sampling for the Long Form—then the cost of the year 2000 census will be about $1 billion higher. So through this amendment the Appropriations Committee, which is supposed to be concerned about the budget and costs, will be taking a $4 billion census and turning it into a $5 billion census.

So we tasked the National Academy of Sciences to come up with a methodology is more cost effective and accurate census. If we approve the prohibition in this bill we will be doing the opposite. We will be conducting a less accurate and more costly census.

There is a sense of absurdity about all this. The costs I have cited are the full multi-year costs of conducting the census. We are starting from a fiscal year 1997 Census Bureau year 2000 decennial census appropriation of only $84 million. That was a cut of about 21 percent from the President's FY 1997 request of $106 million. Under the Census Bureau's $4 billion plan using sampling, the appropriation needs to grow to $2.3 billion within three years. Dollars are tight. Our section 602(b) allocations for our Commerce, Justice, and State Subcommittee have been billions below the President's request for our Subcommittee. And, the Census Bureau competes against the Justice Department and the Judiciary which now account for two-thirds of our bill.

The reality is that Senator Stevens and the Committee are not going to give us the money to fund the Census Bureau's less expensive $4 billion plan using sampling let alone his notion of a $5 billion census that employs no sampling.

And that is what disturbs me most. We have an agency that is trying to economize and find a way to save costs. And here is the Appropriations Committee getting into an area outside our jurisdiction and then telling them to do their job in a more expensive way. I truly fear that we are going to mess up the year 2000 census. That it will be the least accurate census ever.

CONCLUSION

I have received a number of letters from outside interest groups, from demographers and statisticians asking me to get this onerous language out of the bill. Senator Glenn's observations have been especially forceful. Yesterday, our Committee received a letter from the Commerce Department's Inspector General who has done a great deal of work on the Census. I will include the full statement in its entirety, but let me just quote a few lines:

"We strongly disagree with this provision. We believe that such a prohibition would make it almost impossible for the Census Bureau to carefully research, test and implement an optimal design for the 2000 census. Over the past two years, we have issued reports, testified, and briefed bureau, departmental, and congressional principals and their staff members on our support for the use of statistical sampling in the 2000 census. We continue to believe that, if carefully planned and implemented, sampling can be employed by the bureau in the 2000 census to produce overall more accurate results than were produced in the 1990 census, at an acceptable cost. We further believe that the Congress should allow the bureau the freedom to complete its work on sampling and then select the optimal census design based on all of the available information. Halting the design effort at this critical juncture would mean that the substantial effort made to date would be left incomplete and unevaluated.

Madam President, I have been working with Chairman Stevens and Senator Gregg trying to find a reasonable compromise on this issue. It clearly was not their intention to require the long form to be sent to every American. And, it is the concern of many members on the opposite side of the aisle that the Census Bureau not proceed with statistical sampling for the short form in a manner that is irreversible.

Accordingly, I am pleased to report that we have worked out a compromise amendment that achieves both aims. It allows planning and preparation by the Census Bureau to continue and it allows the Committee of Jurisdiction, the Senate Government Affairs Committee, to continue its review and oversight of the Census' plan for the year 2000 decennial census. Finally, the compromise allows the Census Bureau to continue to send the long form to only 1 in 6 Americans and to therefore get essential data.

Madam President, I think this is a good compromise and I trust my good friend the senior Senator from Alaska will uphold the Senate position in Conference with the House.

Mr. HOLLINGS. Madam President, I ask unanimous consent that the letter from the inspector general, the Department of Commerce, and the letter from Secretary Daley be printed in the RECORD.

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

DEPARTMENT OF COMMERCE,
THE INSPECTOR GENERAL,
Washington, DC, May 5, 1997.

Hon. ROBERT C. BYRD,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: We have learned that S. 672, the Supplemental Appropriations and Rescissions Act of 1997, as reported out of the Committee on Appropriations, includes a provision that would prohibit any appropriated fiscal year 1997 funds to be used to plan for the use of statistical sampling in the 2000 decennial census. We strongly disagree with this provision. We believe that such a prohibition would make it almost impossible for the Census Bureau to carefully research, test, and implement an optimal design for the 2000 census. Over the past two years, we have issued reports, testified, and briefed bureau, departmental, and congressional principals and their staff members on our support for the use of statistical sampling in the 2000 census. We continue to believe that, if carefully planned and implemented, sampling can be employed by the bureau in the 2000 census to produce overall more accurate results than were produced in the 1990 census, at an acceptable cost. We further believe that the Congress should allow the bureau the freedom to complete its work on sampling and then select the optimal census design based on all of the available information. Halting the design effort at this critical juncture would mean that the substantial effort made to date would be left incomplete and unevaluated.

The bureau has only recently decided on the type and degree of sampling to be used in the 2000 census. These decisions are driving the bureau to complete the required research on important details. According to the bureau's plan, fundamental work on all potential uses of sampling will be finished by December 1997. We do not believe an informed design decision can be made until this work is completed and the various design components are tested during the April 1998 dress rehearsal. Even if the prohibition against the use of funds for sampling is lifted in fiscal year 1998, we believe that the bureau will simply not have enough time to develop a complete, detailed sampling design for testing in the dress rehearsal. Consequently, the bureau will not be able to conduct a "one-number census" using sampling in 2000 without a significant risk of reduced accuracy, increased cost, and delay. Some of our specific concerns are discussed below.

SAMPLING AND ESTIMATION RESEARCH

If appropriated funds cannot be used for sampling work, important research needed for key sampling design decisions will not occur. Various aspects of this research are interdependent, with one research result feeding into others. For example, according to its research plan, the bureau is scheduled to decided in October on the optimal sampling designs for both nonresponse follow-up and the postal vacancy check. Included in this research is determining how the different sampling applications affect one another at different levels of geography. This information will, in turn, feed into a decision on the optimal Integrated Coverage Measurement survey design, scheduled for December. Aspects of this decision include how to allocate the survey sample to each state to ensure equity among states; which combination of demographic characteristics to focus on to reduce the differential undercount; and how to deal with people who have moved either into or out of a household. Additionally, critical work on how to combine all the different enumeration methods into "one number" may be irretrievably delayed.

STAFFING

The bureau will not be able to hire or contract for the expertise needed to conduct and oversee the sampling and estimation work. Specifically, the bureau will not be able to acquire the staff resources it needs to complete work on the "one number census;" it will not be able to gain much needed information on the effects of sampling on accuracy at the block and small tract areas; and it will not be able to convene an expert oversight panel this summer, as planned.

COSTS

Prohibiting the use of sampling in the 2000 census would drive up cost and drastically reduce the accuracy of the census. Although, the cost increase cannot be precisely estimated, depending on the response to the initial mailing, it is clear that the additional costs would involve hundreds of millions of dollars.

We strongly urge the Committee to allow the bureau the freedom to complete its work on sampling and then select the optimal census design based on all of the available information. To do otherwise would leave the 2000 census in a most precarious position. We are available to discuss these concerns with you and/or your staff at your convenience. Please feel free to call me at (202) 482-4661 or Jessica Rickenbach, our Congressional Liaison Officer, at (202) 482-3052.

Sincerely,

FRANCIS D. DEGEORGE.

THE SECRETARY OF COMMERCE,
Washington, DC, April 29, 1997.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Senate Committee on Appropriations, Washington, DC.

DEAR SENATOR HOLLINGS: I am writing to urge deletion of language contained in the supplemental appropriations bill that would prohibit the Census Bureau from using fiscal year 1997 money to prepare for the use of sampling in the decennial census. The Administration strongly opposes this provision in the disaster relief supplemental.

This language is premature. It would short circuit a process that is underway in other Congressional committees to evaluate the use of sampling in the decennial census. This matter is far too important to be decided without full debate. A prohibition on statistical sampling this year also will seriously impair our ability to develop and plan for the best possible decennial census.

This provision will result in a less accurate, more costly Census 2000. The country deserves an accurate census count that is right the first time. We should not repeat the same mistakes of the 1990 decennial census which did not utilize sampling. Using the failed techniques of the 1990 census would result in an unacceptable undercount. This undercount can be virtually eliminated with statistical sampling.

Congress instructed us to convene the Nation's experts through the National Academy of Sciences. They concluded that statistical sampling is the most reliable method for ensuring an accurate census.

Sincerely,

WILLIAM M. DALEY.

Mr. HOLLINGS. I thank my distinguished chairman, Senator STEVENS.

Mrs. BOXER. Madam President, the emergency supplemental appropriations bill contains language that prohibits the Census Bureau from preparing to use any funds in the current fiscal year to "plan or otherwise prepare for the use of sampling in taking the 2000 decennial census." I opposed this provision in the committee markup because the National Academy of Sciences [NAS], at the request of Congress, found sampling resulted in a more accurate census and that without sampling, the national effects have long-standing negative ramifications. I support Senator HOLLINGS' amendment.

A statistical sampling study was done by the National Academy of Sciences at the request of Congress. Others continue to question if sampling produces accurate data. I welcome that debate, but I believe this is not an issue to be decided in the emergency supplemental appropriations bill. There have been several congressional hearings on this subject, and I support that those committees should be given the opportunity to finish their work. I believe it would be unwise for Congress to stop further work on this issue in an emergency supplemental. Other supporters of using statistical sampling include the American Statistical Association, the Population Association of America, and the National Conference of Mayors.

Sampling results in a more accurate census. The National Academy of Sciences concluded from their study that sampling was necessary for an accurate census count, and strongly recommended its use in the 2000 census to account for nonresponding households. The census is responsible for counting all residents in this country, including those overlooked by traditional polling methods. The process of sampling helps the Census Bureau count U.S. residents that may not respond to traditional outreach methods, that is, those who do not speak English well, or those who can not read or write proficiently. Big cities all across this country are home to many of these overlooked Americans. Relying solely on mailed responses and face-to-face visits, so-called direct enumeration, while critical, will guarantee an inaccurate census because we will essentially be saying if we can not find you, then we will not count you, and therefore you do not exist. The Constitution does not tell us to only count those who are at home, or who has time to fill out the form. The Constitution says every resident must be counted.

Without sampling, the effects have long-standing negative ramifications. The National Academy of Sciences found in the 1990 census racial minorities were severely undercounted, compared to whites. Without sampling, the costs will increase due to added manpower and work hours involved. More census takers will have to be hired, trained and will have to knock on more doors, requiring a greater drain on the Nation's resources. For the 1990 census, those forms that were not returned by mail cost the U.S. Government at least 6 times more to enumerate than those who mailed back their forms. Using field staff to find the most reluctant respondents raised the cost as much as 18 times.

Because of California's large racial minority population, California was more severely harmed by the undercount than other States. We need an accurate census because many important Federal programs depend on census data to allocate funding. In the 1990 census, it is estimated that 837,557 Californians were not counted, which caused California to be shorted more than $5 million in several Federal programs.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 231) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, we have five amendments that, as soon as

Senator FEINGOLD has presented his position on one amendment, we will be able to handle by consent.

I urge Senators to come to the floor to see if we can work out these amendments. We still have some 26 eligible amendments. When I am able to confer with the Senator from West Virginia, I do want to announce a policy with regard to amendments that the Parliamentarian has indicated are not in order under cloture.

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. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Reid amendment No. 171.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Reid amendment be temporarily laid aside.

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

AMENDMENT NO. 83

(Purpose: Prohibit use of funds for ground deployment in Bosnia after September 30, 1997)

Mr. FEINGOLD. Madam President, I call up my amendment No. 83 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 83.

On page 7, line 24, insert before the period, the following: ": *Provided further*, That none of the funds made available under this Act may be obligated or expended for operations or activities of the Armed Forces relating to Bosnia ground deployment after September 30, 1997".

Mr. FEINGOLD. Madam President, I rise today to offer an amendment to the Supplemental Appropriations Act that would effectively set an end date for deployment of ground troops in Bosnia.

The Supplemental Appropriations Act of 1997 provides an additional $1.5 billion in fiscal year 1997 funds for the ongoing Bosnia operation. But what my amendment will do, Madam President, is seek to set a date certain for the withdrawal of U.S. troops from participation in the NATO-led Stabilization Force, or SFOR. Specifically, it prohibits the use of funding provided for under the Supplemental Act for United States Armed Forces in Bosnia and Herzegovina after September 30, 1997, the end of our current fiscal year.

Madam President, I recognize very sincerely that the Dayton Accord and the deployment of the NATO-led Implementation Force, IFOR, to enforce it, has not been without some real benefit. People are no longer dying en masse in Bosnia. And U.S. troops, in conjunction with troops from other countries, should be warmly applauded for having largely succeeded in enforcing the military aspects of the agreement. We should also be very thankful that there have been virtually no casualties.

I think a special note should be made to commend the courage and the dedication of the U.S. military personnel in the region. These men and women continue to work tirelessly in an environment which has been challenging and very complex. Service men and women from across the United States have served in this mission with distinction and there should be no confusion between the honor and the admiration which they have earned and, Madam President, the need to terminate this operation.

The issue of whether the United States should continue to deploy ground troops in Bosnia is a separate question from the outstanding performance of our military forces.

Madam President, I have had strong reservations about United States troop deployment in Bosnia ever since it was initially announced in 1995. As some in this Chamber may recall, I was one of only a few Members of Congress, and the only Democrat in the Senate, to vote against the deployment of U.S. men and women to support the Dayton Accord.

I said then that I doubted the value of a heavy U.S. investment in the region. I felt then that administration promises to have American men and women out of the region within a year's time were unrealistic and would not be kept. And I questioned then whether or not the Dayton plan would level the playing field between the Serbs and Moslems such that peace would reign in the region.

So where are we today, Madam President? United States troops have now been on the ground not just for a year in Bosnia, but for nearly 18 months. And the concerns that I had then remain with us today.

My concerns, Madam President, are twofold. One has to do with a mandate for a military operation that continues to grow, yet has increasingly less value. The other relates to the ever-spiraling cost of United States involvement in Bosnia.

Let me first take up the question of the mandate under which our troops are operating.

Madam President, when, in late 1995, the President first announced he would be sending United States forces to Europe to participate in the IFOR mission, he and many others promised the Congress and the American people that the IFOR mission would be over within 1 year. And this promise was reiterated by the President on several occasions and continually backed up by senior American military and diplomatic officials in public statements and in testimony before Congress, including in response to my own questions in the Senate Foreign Relations Committee. There were repeated assurances that this would be over within 1 year.

We all understood that that promise meant that our military men and women would be withdrawn from the region by December 1996, or at least very shortly thereafter. But, Madam President, in November 1996, the President announced that he would extend the U.S. mission for an additional 18 months. A mission that was promised to be only 1 year was just suddenly and very quietly extended by 18 months beyond that year through June 1998, for participation in the NATO force now known as the Stabilization Force, or SFOR.

Despite the baptism of a new mission, Madam President, we all know that SFOR, although a bit more limited in scope, in reality represents just an extension of the original IFOR mandate that was supposed to expire within 1 year. The President's announcement of an extended deadline signaled that the United States would continue to be drawn deeper into a situation from which it has become harder and harder to extricate itself.

Madam President, the war in Vietnam was called a quagmire. We referred to continued United States troop deployment in Somalia as "mission creep." I fear that the Bosnia operation is presenting the same dilemma. With indicted war criminals still at large, refugees still unable to return to their homes, and the timing for upcoming local elections still in doubt, there will obviously continue to be many reasons to call for an ongoing U.S. military presence on the ground without any clear end in sight.

In the meantime, in the heart of the conflict is the fact that the strategic political goals of the warring factions remain unchanged.

Madam President, I have a copy of a November 26, 1996, editorial from the Wisconsin State Journal. I ask unanimous consent that it be printed in the RECORD.

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

[From the Wisconsin State Journal, Nov. 26, 1996]

BOSNIA MISSION DEVOID OF VISION

President Clinton said a year ago that most U.S. troops would be out of Bosnia within a year. Now he says the United States is prepared to keep troops in that shattered Balkans nation for another 18 months.

Here's a preview of what Clinton's decision could mean for those troops as the North Atlantic Treaty Organization mission in Bosnia drags on.

For 11 months, displaced Muslims have been waiting patiently for the NATO force to deliver on the biggest promise made to them through the Dayton peace agreement: The right to return to their homes.

For refugees living in camps near the town of Celic this month, patience ran out.

After learning that their empty homes in Gajevi and Koraj were being blown up by the Serbs, the refugees tried to take matters into their own hands. About 600 of them, mostly women and children accompanied by some armed men, tried to walk back to their villages.

They were turned back by American soldiers who got caught in a crossfire between the Muslims and the Serbs. No Americans were hit, but one Muslim man was killed by Serb gunfire.

When the American troops returned to Celic the next day to confiscate weapons from a Bosnian army storage site, an angry crowd of several thousand blocked their way. "Pretty soon rocks were bouncing off helmets and soldiers were being spit on," one soldier told the Chicago Tribune.

Almost a year after the Dayton peace agreement committed U.S. troops to Bosnia, U.S. commanders there describe the situation on the ground not as "peace" but rather the "absence of war." Almost no freedom of movement exists. Few refugees have been able to return to their homes and elections two months ago, while essentially fair, only served to harden deep ethnic divisions.

Nothing has been done to make the Serbs accept resettlement of the Bosnians, and NATO commanders have not been able to do anything to track down war criminals responsible for "ethnic cleaning" during Bosnia's long civil war.

So, what's the point? Why does Clinton propose to keep American troops in Bosnia, long past his original schedule?

U.S. Sen. Russ Feingold, D-Wis., said he believes the whole Bosnia policy was "sold on a phony basis" to Congress and the American people. Meeting this month with members of the State Journal editorial board, Feingold observed, "Three billion dollars later, we're still in this thing. We continue to be drawn deeper and deeper into a situation from which we appear unable to extricate ourselves."

By leaving the U.S. mission in Bosnia open-ended, Clinton gives the Serbs every reason to continue thumbing their nose at the Dayton agreement and our European allies less reason to take ownership of a peace-keeping mission that should be their primary concern.

Members of both parties in Congress are starting to ask hard questions about the goals and duration of the U.S. mission in Bosnia. It's time to hold Clinton's feet to the fire—before American troops find themselves caught in the middle again.

Mr. FEINGOLD. Thank you, Madam President.

This editorial, in one of our State's leading newspapers, notes as follows:

By leaving the United States mission in Bosnia open-ended, [President] Clinton gives the Serbs every reason to continue thumbing their nose at the Dayton agreement and our European allies less reason to take ownership of a peace-keeping mission that should be their primary concern.

By this analysis, the presence of U.S. troops may actually serve to harden rather than soften the ethnic tensions in the area. The longer the Moslem refugees are prevented from returning to their homes, the more determined they are of the right to do so. At the same time, the Serbs are thwarting resettlement efforts and ignoring indictments from the War Crimes Tribunal against their own leadership.

As this newspaper editorial reminds us, the "U.S. commanders [in Bosnia] describe the situation on the ground not as 'peace' but rather as the 'absence of war.'"

Madam President, I believe that the open-endedness of this mission may actually be helping to keep the warring parties from truly fulfilling their commitments under the Dayton accord.

Madam President, let me turn to my second major concern. And it is really the crux of this amendment. That relates to the bill that the United States taxpayer is bearing with regard to the Bosnia operation.

Congress and the American people were originally told that the Bosnia mission would cost the United States taxpayer some $2 billion; a lot of money. Then sometime in 1996 that estimate was revised up to $3 billion. But subsequent to the President's announcement extending the deadline for troop withdrawal, we learned that cost estimates have been revised again, and now, according to statements by the Department of Defense on this matter, the figure is estimated to be at a minimum, by the middle of 1998, $6.5 billion for this Bosnia operation. Madam President, that represents a more than threefold increase from the administration's original estimate.

To put this in perspective, the United States over the course of 30 months in Bosnia—in Bosnia alone—expects to have spent an amount equivalent to just over half of what our country spends in the entire world in our foreign operations budget for the current fiscal year.

What we have here with United States involvement in the Bosnia operation is not just mission creep, it has become dollars creep for the United States Congress and the American people. And this is all happening at the very moment, at the very key moment when we are straining hard to eliminate the Federal deficit. We need to plug up the hole in the Treasury through which funds continue to pour into the Bosnia operation.

In the supplemental request before us today, the administration is asking the Congress now to sign off on an additional $1.5 billion for the Bosnia operation. This request represents only a portion of the threefold increase in the estimate. So it is clear to me—and I think it is clear to everyone—that this request will not be the last. It is just another installment on this $6.5 billion cost that we already know the Bosnia operation is going to involve.

Madam President, what my amendment would do is retain the Bosnia-related funding in the supplemental, but it would prohibit the use of those funds after the end of the current fiscal year. This amendment would then effectively establish an end date for the deployment of ground troops in Bosnia. This is the only hope we have to plug up that hole in the Treasury.

By establishing an end date for the funding of the deployment of U.S. troops, I would like to think that my amendment serves a dual purpose. First, it prevents mission creep, and, second, I think it would put an end to the dollars creep that is beginning to become very troubling with regard to the Bosnia operation.

At this point, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 177 TO AMENDMENT NO. 83

(Purpose: To change the date for prohibition of use of funds for ground deployment in Bosnia)

Mrs. HUTCHISON. Mr. President, Senator FEINGOLD's amendment, I think, certainly lays down a marker. Senator FEINGOLD and I cosponsored an amendment—actually a resolution—earlier that asked that we have more parameters around this Bosnia mission because many of us were concerned that we did not know enough about what would be done.

As you know, the administration has missed one deadline. It was supposed to be a 1-year mission. That was passed 5 months ago. Now we are facing another commitment for a resolution that I think is June 30, 1998. Not only has the administration said that June 30, 1998, would be the end of the Bosnia mission, but Secretary Cohen has been very firm in saying I promise the Congress that is the end, and he is planning for that. I want to make sure that is set in concrete, that Congress speaks on this issue, and that Secretary Cohen has the ability to plan by knowing that the funds would be cut off in this supplemental appropriation at June 30.

Now, Senator FEINGOLD has a September 30, 1997, date in his amendment, so I am going to ask unanimous consent to call up second-degree amendment No. 177 to the Feingold amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Texas [Mrs. HUTCHINSON] proposes an amendment numbered 177 to amendment No. 83: Strike out "September 30, 1997" and insert in lieu thereof "June 30, 1998."

Mrs. HUTCHISON. This is a simple amendment. It basically says what the

administration has promised is going to happen, and that is June 30, let us go ahead and plan so that we can let everyone know, our allies know, that that is a firm date. The President has said so. The Secretary of Defense has said so. As Senator FEINGOLD said earlier, I think we have accomplished the mission the President wanted to accomplish. I do not think it serves a purpose for us to be taking funds from training, from readiness of our troops for this mission in Bosnia. In fact, that is why we are here doing the supplemental today. We are trying to put the money that has gone into Bosnia back into the defense budget. We need money for parts. We need money for airplanes. We need money for training and retraining the troops that have come out of Bosnia. We need to have the money for the pay raises and the quality of life for our military.

That money has been spent in Bosnia. I am not going to quibble about spending the money in Bosnia because if my troops are there, I want them taken care of. But I do not want to hurt our ability to train the other troops for readiness to make sure we are able to fight two simultaneous or nearly simultaneous major regional conflicts.

So we have a job to do. That is what the supplemental is for. My second-degree amendment does in fact put a June 30, 1998, deadline, which is the promise of the President, onto this amendment. Then I think all of us will be ready to prepare for the eventual withdrawal of our troops and that money going into our training and our spare parts and our airplanes and all of the factors to make sure that our troops are ready to go in case of need.

I thank the Chair. I appreciate Senator FEINGOLD taking this initiative and for his work on this very important issue.

Mr. FEINGOLD. Mr. President, I want to commend the Senator from Texas for her leadership regarding the issue of troop deployment in Bosnia, and will support her second-degree amendment.

The language drafted by the Senator from Texas changes the date of the funding prohibitions in my amendment, as she indicated, from September 30, 1997, which is the end of the current fiscal year, to June 30, 1998, which is the date the administration is now using as its target end date for this mission.

Of course, Mr. President, I would have preferred the earlier date, the September 30, 1997 deadline, which would effectively require the administration to begin plans to withdraw at least some of our troops starting tomorrow. That would be the quickest way for the United States to get out of a situation that, I think, is getting worse the longer we stay there.

But I, of course, recognize there are concerns from a number of Senators that trying to dismantle an operation the size of the United States troop deployment in Bosnia within a 5-month timeframe would be difficult to accomplish. I also recognize that there is more support in this body for the later date that the Senator from Texas has suggested. There are many Members who are willing to allow the mission to continue through June of next year if, in exchange for that, they get a solid, firm, and irrevocable commitment to an end date. So I am prepared to support the end date of June 30, 1998.

A point I want to emphasize is that if Congress does not establish an end date to our involvement in Bosnia, this mission will continue to drag on and on and on. Therefore, I am willing to accept the second-degree amendment of the Senator from Texas. I congratulate her for her efforts in this area. I have joined as a cosponsor of a freestanding bill that she is introducing to also help us accomplish this goal. Regardless of the result of today's debate, she and I will continue to press for an end date to this deployment.

Mr. STEVENS. Mr. President, the original amendment would prohibit the expenditure of funds after September 30, 1997. There are no funds in the bill for defense to be spent after September 30, 1997. The amendment of the Senator from Texas would prohibit spending funds after June 30, 1998. No funds in the bill will be expended after June 30, 1998. So the amendments take on an image perspective, from the point of view of this Senator. I am certainly not going to oppose them on that point. But I emphasize that they are just a statement of policy. It amounts to a sense-of-the-Congress position about the expenditure of funds. They would not be a barrier to the expenditure of funds under the circumstances of this bill.

Mrs. HUTCHISON. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mrs. HUTCHISON. I know what we are really doing is supplementing the money already spent on Bosnia. But I appreciate the fact that the Senator from Alaska says that this is a sense of the Senate and that it does say that all of us now are serious about the end strategy, the preparation for the end strategy. The President has promised it and the Secretary of Defense promised it. Now Congress will, in a sense, be saying, look, this is real, this is now something that we are all in agreement on; the time has come for to us make sure that we have that end game in sight and that the money for training and quality of life will be there for our troops all along the way.

So I appreciate the Senator from Alaska pointing that out. I do agree that it will be a sense of the Senate. I think it will be a unanimous one, and I think it will be significant.

Thank you, Mr. President.

Mr. STEVENS. Mr. President, I have been informed that others wish to speak on this amendment. Under the circumstances, 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. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

AMENDMENT NO. 131

(Purpose: To provide funding for the Delaware River Basin Commission)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BIDEN, Mr. REID, and Mr. ROTH, proposes an amendment numbered 131.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 48, strike lines 15 through 23 and insert the following:

SEC. 306. DELAWARE RIVER BASIN COMMISSION; SUSQUEHANNA RIVER BASIN COMMISSION.

(a) COMPENSATION OF ALTERNATIVE MEMBERS.—During fiscal year 1997 and each fiscal year thereafter, compensation for the alternate members of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87–328) and for the alternate members of the Susquehanna River Basin Commission appointed under the Susquehanna River Basin Compact (Public Law 91–575) shall be provided by the Secretary of the Interior.

(b) IMMEDIATE CONTRIBUTION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall make a contribution to each of the Delaware River Basin Commission and the Susquehanna River Basin Commission for fiscal year 1997 an amount of funds that bears the same proportion to the amount of funds contributed for fiscal year 1996 as the number of days remaining in fiscal year 1997 as of the date of enactment of this Act bears to the number 365.

Mr. STEVENS. Mr. President, this amendment deals with Delaware and Susquehanna River Basin Commissions. It was offered by Senators BIDEN, REID, and ROTH. It would direct the Secretary of the Interior to provide compensation to the Federal representative to the Delaware and the Susquehanna River Basin Commissions, without indicating who that individual would be.

The second-degree amendment makes the Secretary of the Interior, or his

designee, the representative. It does not provide for compensation above that otherwise earned by that employee of the Department of the Interior. I trust that both amendments will be before the Senate at the same time. The second one is amendment No. 224.

AMENDMENT NO. 224 TO AMENDMENT NO. 131

(Purpose: A 2nd degree amendment to amendment No. 131 providing that the Federal representative to the River Basin Commissions shall be the Secretary of the Interior or his designee)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. DOMENICI, proposes an amendment numbered 224 to amendment No. 131.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike line 5 of amendment No. 131 and all thereafter and insert the following:

The Secretary of the Interior or his designee shall serve as the alternate member of the Susquehana River Basin Commission appointed under the Susquehana River Basin Compact (Public Law 91-575) and the alternate member of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87-328).

Mr. STEVENS. I urge adoption of amendment No. 224.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 224) was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment No. 131.

The amendment (No. 131), as amended, was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 70

(Purpose: To set aside certain funds for the project consisting of channel restoration and improvements on the James River in South Dakota)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. JOHNSON, for himself, and Mr. DASCHLE, proposes an amendment numbered 70.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 19, line 6, before the period, insert the following: ": *Provided further*, That, of the funds appropriated under this paragraph, $10,000,000 shall be used for the project consisting of channel restoration and improvements on the James River authorized by section 401(b) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4128)".

Mr. JOHNSON. Mr. President, I have to my right a satellite image of the James River in South Dakota; on the left, depicting the river in its normal course prior to the flooding. On the right is a satellite image showing the current state of the James River—swollen, in places miles across, with water in a circumstance where less than 5 percent of the farmland in the James River Valley, from North Dakota to Nebraska, will be planted this year. This imagery was provided by the aerial data center in South Dakota. I think it very ably shows the dire circumstances that people in the James River area are facing.

Amendment No. 70 is an amendment offered by myself and by my colleague, Senator DASCHLE, which addresses the extensive damage that has taken place in the James River Valley and which needs to be addressed. This amendment addresses the problem, where up to 75 percent of the trees in this area have been lost, where bank sloughing and levee sloughing has filled the channel and reduced its capability to handle water. The amendment would provide a $10 million appropriation through the Corps of Engineers to the James River Water Development District to use for the badly needed repair and restoration work on the James River.

This is a 25-percent cost share. I am pleased that this amendment has been cleared and approved by the majority and the minority of the Environment and Public Works Committee. I thank Senator CHAFEE and Senator BAUCUS and their staffs for their willingness to work with us on these amendments. I also thank the appropriators, Senator STEVENS and Senator BYRD, Senator DOMENICI and Senator REID from the Energy and Water Appropriations Subcommittees and their staffs, for their willingness to work with us on the language of this amendment, and to accept it as part of the supplemental appropriations legislation being considered by the Senate today.

Mr. President, this amendment will go a long way toward restoring the James River and its water-carrying capacity, to restore its wildlife, to restore the economic life of the area on either side of this river, and it will do a great deal to assure residents of this area that we will not see flooding of this magnitude, of this devastating scope, any time soon again.

I had the opportunity to fly over the James River to take an aerial survey of this area this past month, flying out of Pierre, SD, flying over Mitchell, then back over Aberdeen, over Sand Lake Wildlife Refuge to gain a full appreciation of the magnitude of this flood.

We have a great deal of flood problems in other areas of South Dakota, but this amendment addresses the dire circumstances that the people in the James River Valley face.

I thank, again, my colleagues for their cooperation and their assistance with this amendment. It certainly is my hope that we can very expeditiously pass the supplemental appropriations bill, get it to the President's desk for his signature and to get on with rebuilding the lives of our communities, of our businesses and of our families, in this case, in the James River Valley.

I yield back the remainder of my time, Mr. President.

AMENDMENT NO. 225 TO AMENDMENT NO. 70

(Purpose: A second degree amendment to amendment No. 70 making funds contingent upon a finding by the Secretary of the Army that channel restoration and improvements of the James River constitute an emergency)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. DOMENICI, proposes an amendment numbered 225 to amendment No. 70.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On line 7 of amendment No. 70, following "(Public Law 99-662; 100 Stat. 4128)"; insert the following: "if the Secretary of the Army determines that the need for such restoration and improvements constitutes an emergency."

Mr. STEVENS. Mr. President, the first-degree amendment by Senators JOHNSON and DASCHLE would provide $10 million of funds provided in this act for the flood control and coastal emergencies and would be used for channel restoration and improvements on the James River.

My second-degree amendment inserts the requirement that the $10 million be provided only if the Secretary of the Army determines that the need for channel restoration and improvement constitutes an emergency.

I urge adoption of the amendments.

The PRESIDING OFFICER. The question is on the second-degree amendment.

The amendment (No. 225) was agreed to.

The PRESIDING OFFICER. The question is on the first-degree amendment, as amended.

The amendment (No. 70), as amended, was agreed to.

Mr. STEVENS. I move to reconsider that vote on both amendments and ask that the motion be laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 90

(Purpose: To provide funding for the Partners in Wildlife Program of the United States Fish and Wildlife Service to pay private landowners for the voluntary use of private land to store water in restored wetlands)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. DASCHLE, proposes an amendment numbered 90.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

UNITED STATES FISH AND WILDLIFE SERVICE PARTNERS FOR WILDLIFE PROGRAM

For the Partners in Wildlife Program of the United States Fish and Wildlife Service, $5,000,000 to pay private landowners for the voluntary use of private land to store water in restored wetlands.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order to consider a technical modification to amendment number 90.

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

Mr. STEVENS. I send that modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 90), as modified, is as follows:

On page 21, strike line 7 through the word "fire" on line 11 and insert the following: "For an additional amount for "Resource Management", $8,350,000, of which $3,350,000, to remain available until September 30, 1998, is for fish replacement and for technical assistance made necessary by floods and other natural disasters and for restoration of public lands damaged by fire, and of which $5,000,000, to remain available until September 30, 1999, is for payments to private landowners for the voluntary use of private land to store water in restored wetlands."

Mr. STEVENS. The amendment, as modified, would provide an additional $5 million to the Fish and Wildlife Service to pay private landowners for the voluntary use of private land to store water in restored wetlands. These funds were not provided to any specific region and should be allocated on a competitive basis.

This amendment has been cleared on both sides and the version I have submitted to the desk is a modification of the original amendment No. 90.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 90), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 144

(Purpose: To make technical amendments with respect to education)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. DOMENICI, for himself, Mr. BINGAMAN, Mr. BROWNBACK, and Mr. ROBERTS, proposes an amendment numbered 144.

Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . TECHNICAL AMENDMENTS RELATING TO DISCLOSURES REQUIRED WITH RESPECT TO GRADUATION RATES.

(A) AMENDMENTS.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended—

(1) in subsection (a)(3)(B), by striking "June 30" and inserting "August 31"; and

(2) in subsection (e)(9), by striking "August 30" and inserting "August 31".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) are effective upon enactment.

(2) INFORMATION DISSEMINATION.—No institution shall be required to comply with the amendment made by subsection (a)(1) before July 1, 1998.

SEC. . DATE EXTENSION.

Section 1501(a)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491(a)(4)) is amended by striking "January 1, 1998" and inserting "January 1, 1999".

SEC. . TIMELY FILING OF NOTICE.

Notwithstanding any other provision of law, the Secretary of Education shall deem Kansas and New Mexico to have timely submitted under section 8009(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7709(c)(1)) the States' written notices of intent to consider payments described in section 8009(b)(1) of the Act (20 U.S.C. 7709(b)(1)) in providing State aid to local educational agencies for school year 1997–1998, except that the Secretary may require the States to submit such additional information as the Secretary may require, which information shall be considered part of the notices.

SEC. . HOLD HARMLESS PAYMENTS.

Section 8002(h)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking "or" after the semicolon;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) for fiscal year 1997 and each succeeding fiscal year through fiscal year 2000 shall not be less than 85 percent of the amount such agency received for fiscal year 1996 under subsection (b).".

SEC. . DATA.

(a) IN GENERAL.—Section 8003(f)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting "expenditure," after "revenue,"; and

(B) by striking the semicolon and inserting a period;

(2) by striking "the Secretary" and all that follows through "shall use" and inserting "the Secretary shall use"; and

(3) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal years after fiscal year 1997.

Mr. DOMENICI. Mr. President, I rise today to offer the following amendment to S. 672. This amendment involves the New Mexico Department of Education's intent to take credit for $30 million of Federal impact aid funds. I am offering this amendment on behalf of the 331,000 public school children of New Mexico.

New Mexico is one of three States in the country which uses an equalization formula to distribute educational moneys among its school districts. Presently, 40 out of New Mexico's 89 school districts qualify for $30 million dollars' worth of impact aid. The New Mexico Department of Education relies on impact aid in calculating the amount of State funds which will be used to equalize educational funding among all 89 school districts.

Without this amendment, the New Mexico Department of Education would not be permitted to consider $30 million of impact aid in its formula for distributing State education moneys among its school districts. The inability to consider Federal funds would create an imbalance in the distribution of educational funds between nonimpact aid school districts and impact aid school districts.

This amendment allows the U.S. Department of Education to recognize as timely New Mexico's written notice of intent to consider impact aid payments in providing State aid to school districts for the 1997–98 school year.

Mr. BROWNBACK. Mr. President, I rise to give some remarks on an amendment being offered today by myself and by Senator ROBERTS as well as my colleagues from New Mexico, Senator DOMENICI and Senator BINGAMAN.

This amendment, which is revenue neutral, is critically important to education in the State of Kansas.

It should be noted that this amendment does not cost the Federal Government any money. In fact, it simply allows the Department of Education in Kansas to grant deductibility in the school finance formula for impact aid funding. Without this amendment it is likely that the Kansas taxpayers would

have to pay an extra $6 million in taxes to fully fund the State's education programs.

This amendment corrects for a potentially very expensive technicality. I therefore urge the timely consideration of this very important and time sensitive amendment.

Mr. STEVENS. These technical amendments were passed by the Senate unanimously April 16. The bill is now pending in the House. These are amendments that are deemed to be important and should be considered on a timely basis. That is why they are being added to the bill at this time.

I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 144) was agreed to.

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

The motion to lay on the table was agreed to.

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

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I ask unanimous consent that I may speak as in morning business for not to exceed 5 minutes.

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

GENDER SCHIZOPHRENIA

Mr. GORTON. Mr. President, by all accounts, Lt. Kelly Flinn has had a remarkable Air Force pilot's career. Becoming an astronaut was her childhood dream; becoming an Air Force pilot was an achievement accomplished upon completion of her basic pilot training in December 1994. She was the most distinguished graduate of her training class, rated exceptionally qualified to fly a B-52 bomber, an assignment earned from her high class ranking.

Today, she is confined to a desk job, stripped of her security clearance, grounded, publicly disgraced. On May 20 the Air Force will court martial her for adultery.

The United States military has experienced its share of scandal in the past 5 years. In Aberdeen, MD, a court-martial jury recently convicted an Army drill sergeant of raping six soldiers under his command. In 1991 the Tailhook scandal rocked the Navy and the Marines. In both instances women were physically abused by their colleagues or superiors, on military facilities or at military functions. The acts committed against these women range from the lewd to the violent.

Lt. Kelly Flinn stands accused of conducting an affair with a married man, a civilian, who lied to her about his martial status. Their relationship was for all intents and purposes a private matter; they did not attend military functions together or while she was in uniform. If she is convicted, she will be grounded forever, dismissed from the Air Force and could even spend time in prison.

I call attention to this particular case because I believe it speaks to the highly publicized gender schizophrenia we are witnessing as the military grapples with women's role in our Armed Forces. On one hand, women have had a traditional, but non-expanding role in the military. On the other hand, we are shocked by what appears to be a pervasive resistance to women in the ranks, and the scandals that bear the most extreme illustration of this behavior and mindset. Put differently, assimilation to the military's rules of conduct is separate and distinct from assimilation of the military's culture.

The Armed Forces are institutions premised on order and command, governed rigidly by rules, written and implied; by codes, some memorized and some unspoken. In some instances however, the strict application of military codes appears to suspend reasonable judgment about the seriousness of the offense committed.

In this case, clearly, the punishment does not appear to fit the crime. As Lieutenant Flinn says, "I fell in love with the wrong man." For this offense, which she committed unknowingly because Mr. Zigo lied about being legally separated from his wife, her Air Force career is slated to come to an ignoble end.

Lets not forget that of those 140 Navy officers involved in Tailhook, none were court-martialed.

It is difficult for me as an officer who served for more than 20 years as an Air Force judge advocate, to imagine that no other officer at Minot Air Force Base has committed the offense of which Lieutenant Flinn stands accused.

Wisdom and good judgment seem clearly to demand a dismissal of the criminal charges against Lieutenant Flinn and the substitution of nonjudicial or informal sanctions. I trust that the Air Force will promptly see the wisdom of this suggestion.

Mr. President, I yield the floor.

Mr. BINGAMAN addressed the Chair.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 5 minutes as if in morning business.

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

FCC RULING

Mr. BINGAMAN. Mr. President, this morning the Federal Communications Commission made its ruling on implementation of the Universal Services Fund. They passed it by a 4-to-0 vote supporting the findings of the Federal-State joint board. This decision by them has opened the door to affordable Internet access for schools, libraries, and hospitals throughout this country.

I want to congratulate Commissioner Hundt and his colleagues on the Commission for their leadership and their commitment to putting technology to work in our schools and in our communities.

I also want to congratulate my colleagues, Senator SNOWE, Senator ROCKEFELLER, Senator Exon, and Senator KERREY, especially, for their leadership in proposing the Universal Services discount as a provision in the Telecommunications Act which we passed last year.

Their hard work on behalf of education technology was critical in getting us to this point.

This Universal Services Fund will provide telecommunications discounts of between 20 and 90 percent, depending in part on the income levels of families in the particular school communities.

I have done some back-of-the-envelope calculations about my State, and, as far as I can determine, the FCC's decision could mean a discount of more than 70 percent for many New Mexico schools.

Education technology is important to my State. We have all seen how it can allow even the smallest or most isolated school across the State to develop a level playing field with larger school districts and, in fact, with wealthier States.

In a cost-effective manner, education technology can provide advanced courses and access to amazing amounts of information for all of our students.

That is why I am very proud. In 1994, we passed an act that I proposed entitled "Technology in Education Act." That act will provide $200 million to America's schools for purchase of advanced technology. It has brought $1.7 million to my home State of New Mexico this year alone.

I support the President's request in his budget to increase the Technology Literacy Challenge Fund from $200 million this year to $425 million next year.

The 1994 Technology in Education Act also created the Regional Technology in Education Consortia, these consortia providing schools and school districts with the technical assistance that they need to be full participants in this information age.

This technical assistance will be more needed than ever now that the telecommunications costs will be less of an obstacle to schools seeking connections to the Internet.

Our country has also made some progress in raising the awareness of the need for high academic standards. I serve on the National Education Goals Panel, and, as such, I have supported the effort to build a nation of learners, and education technology is an important part of doing that.

One of the things that we have to do a better job of clearly is training teachers to be comfortable with this new technology. I believe we need to pursue legislation on this area this Congress. I hope to have a part in that.

In my view, the educational technology movement will change the way people teach and learn from now on.

Distance learning is more than delivering instruction any time and anywhere, although that is an important part of what is involved. It is also about giving teachers the resources that they need to be effective as learning coaches. It is about empowering students to explore and learn in ways that are best for them as individuals.

Today's FCC ruling is an important step forward. I urge my colleagues in the Senate to help ensure that our teachers and schoolchildren have the best technology that we can offer as we prepare them for the 21st century.

Thank you, Mr. President.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 83 AND AMENDMENT NO. 177

Mr. LIEBERMAN. Mr. President, I rise to speak in opposition to amendment No. 83 offered by the Senator from Wisconsin to S. 672, the underlying bill. I gather that Senator FEINGOLD's amendment has been second-degreed by the Senator from Texas with amendment No. 177.

In brief, the underlying amendment to the supplemental appropriations bill would prohibit the use of funds for ground deployment in Bosnia after September 30 of this year, 1997. The second-degree amendment changes the date of September 30, 1997, to June 30, 1998.

Mr. President, after all the debate and discussion here on the floor of this Senate for the last 6 years, really after all of the diplomatic effort by our Government and other governments in Europe and throughout the world regarding the conflict in Bosnia, after all of the blood that has been spilled in Bosnia with hundreds of thousands of people displaced and killed, and after the heroic service of the American soldiers that have been part of IFOR and SFOR, joined with soldiers of other countries in separating the warring parties in the former Yugoslavia and stopping the conflict and beginning the peaceful reconstruction of that land, it is fundamentally inconceivable to me that the Senate here on an amendment to this supplemental appropriations bill would direct the military to pull out of this conflict, to walk away, in my opinion, before the job is done, to do something that is not in the best traditions of American diplomacy, let alone the American military.

So, Mr. President, I strongly oppose these two amendments.

If I may, I would like to take just a few moments to recall with my colleagues some of what has happened in this Chamber, in the former Yugoslavia, and in the capitals of the world regarding this conflict and why it is as important as I think it is that our actions are as constructive and courageous as I believe they are. This action would be, by virtue of this amendment, without the appropriate hearings by the relevant committees, without hearing from our military and civilian leadership, without even hearing from those such as Ambassador Holbrooke who negotiated the Dayton peace agreement—it would be so wrong for us to adopt these amendments.

Mr. President, the conflict that broke out in the former Yugoslavia was one of the byproducts, if you will, of the collapse of the former Soviet Union. There are times, of course, when a war is over—in this case I speak of the cold war—when a time of instability and uncertainty prevails, and there are those who will seek to take advantage of that uncertainty with military force to turn the circumstance to their own benefit. That is the context in which I have always viewed the war that broke out in the former Yugoslavia. It is not, as we have said over and over again, that there are any saints in that particular region of the world.

But it was clear to me that there was an intentional act of war, aggression, and genocide against people based on their religion, for the most part, if they happened to be Bosnian Muslims, by Serbia. That raged on and on—not stopped by the powers in Europe—raged on and on, as we witnessed continually on our television sets one horror after another. It was hard to believe that in the heart of Europe once again so soon after the end of the Second World War we were seeing aggression and genocide, even concentration camps for some period of time.

We debated this here at great length in this Chamber. The United States, I think for reasons that were misplaced, I believe, in 1991 became part of imposing an arms embargo on the parties in the former Yugoslavia. The aim was to try to avoid conflict or to avoid the spread of conflict by keeping arms out of there—apparently well intentioned. Yet, the effect of it was horrendous and devastatingly unfair because the Serbs, by virtue of the division of the country, retained most of the war-fighting capacity and armaments manufacturing capacity of the former Yugoslavia. The Bosnians did not have that capacity.

So, not only did the world stand by as the war went on and not intervene, but we were prohibiting the Bosnians, the Muslims, from obtaining the arms that they needed to defend their families, their neighbors, and their country.

Former Senate majority leader, Senator Dole, led the effort to raise the arms embargo. It was a bipartisan effort in which I was honored to join with him in which we contended, if you will, with two successive administrations, one of each political party.

Finally, after repeated attempts, in the spring of 1995 we were able to obtain a majority in this Chamber to lift the arms embargo. This was in response to one story after another of horror in Srebrenica, in all of that city, mass slaughter of people, discovery of concentration camps with bodies all around. And after that embargo was lifted, an act of real leadership by this administration, by the President, in calling for NATO strikes, which so many of us here continued to say, "Strike from the air. Make the Serbs pay for their aggression." No one is doing anything to stop them. No one is doing anything which would indicate that the rest of the world cares about what is happening there or will care if this once again becomes a wider war in Europe, bringing in the neighbors all around, including the potential to bring in two of our allies in NATO, namely, Greece and Turkey.

Force was used. The Serbs responded. The Dayton peace began. Ambassador Holbrooke was sent in by the President in one of the most extraordinary exercises in diplomatic leadership that we have seen in recent times, where the Dayton peace accord was signed leading to the so-called IFOR presence in Bosnia.

Mr. President, we have been at a fork in the road in Bosnia before, forks that would have, if we took one turn, left the people of Bosnia to their own devices, the outcome to be decided by brute strength and savagery unknown in Europe for 50 years, risking the expansion of that violence to other parts of Europe with possibly much greater harm to our vital interests there. The other fork is the one we ultimately took, to try to stop the violence and bring peace, order, and justice back to the former Yugoslavia.

The Dayton accords happened because the United States finally exercised its leadership and, with NATO, used collective power to bring the conflict to an end. IFOR was created to assure that territorial and other military-related provisions of the Dayton agreement were achieved. But although stopping the fighting was a necessary condition for achieving the goal of assuring the continuity of the single State of Bosnia and Herzegovina, it was never considered as a sufficient condition for achieving that goal.

Unfortunately, it was this part of the agreement that received the vast majority of the attention and debate in the United States. American opponents of U.S. participation made dire predictions of disaster and casualties, and the result was a very narrow mission statement and an arbitrary 1-year time limit for IFOR deployment. I opposed that 1-year time limit because I believed that only when IFOR's success could be combined with the implementation of the civilian elements of the agreement at Dayton—rehabilitation of infrastructure, economic reconstruction, political and constitutional institutions in Bosnia-Herzegovina, promotion and respect for human rights, return of displaced persons and pursuit of indicted war criminals—would it be possible for us to end our participation there.

When some have started to talk about withdrawing on June 30, 1998, I said again I hope that we will be in a position to do that, but has it ever made sense in a military involvement to announce the date by which we are withdrawing, leaving those who would benefit from our withdrawal, who would try to take advantage of it, to lay in wait until that withdrawal, until that withdrawal which would leave them a clear field to proceed back to war and savagery and the threat of a wider conflict which inevitably will cost us more than we have spent to stop the conflict and prevent that wider war in the former Yugoslavia.

So where are we, Mr. President, in the execution of the tasks we set at Dayton? I would say we are part of the way to our goal. We have officially declared IFOR successful and its mission complete. The first part of that task was accomplished magnificently by our forces. The violence stopped, an environment of relative stability emerged and not one IFOR member, thank God, was killed as a result of military action. This performance was due to the skill and professionalism of the IFOR soldiers, to the reputation accorded NATO and its soldiers and ultimately to the sine quo non of all of this, which is American leadership.

But executing the essential second part of the task has not been as successful. The progress in rebuilding Bosnia has been slow, due in part to the difficulty of overcoming the antagonism engendered by a tragic war and the effects of a creation of ethnic areas, but it is also due to the fact that rebuilding a country is much harder than stopping the fighting, and we have given far less focus and far less support for the difficult tasks necessary to rebuild Bosnia than we gave to the military tasks.

The mission of IFOR was very narrowly stated, and we avoided many opportunities for IFOR to support some of the most important civilian parts of the agreement. Most notable to me was our failure to direct IFOR or some international body to apprehend the indicted war criminals that bear such a large part of the responsibility for the afflictions of this fated land, the freedom of which, flaunting the indictment of an internationally constituted war crimes tribunal, will prevent genuine peace in Bosnia from ever occurring. These criminals are still at large. They can be seen, particularly Mr. Karadzic, one of the main perpetrators of the war crimes, indicted by an established international tribunal, seen almost daily controlling so much of what happens in the Serb part of Bosnia, still at large. And that freedom remains a profoundly serious impediment to attempts to build a civil society with functioning democratic institutions.

Still we have made progress. The efforts of Ambassador Holbrooke reduced but clearly did not eliminate the deleterious effects of the war criminals. Elections for national leaders have been held. The government is functioning. So we have reason to be extremely grateful for the military and political successes that have been achieved. These successes have been extraordinarily important.

Today we come to another fork in the road as a result of these amendments not considered at length by this Chamber, certainly not yet. As before, one fork would leave the people of Bosnia to their own devices regardless of what the condition on the ground was, first on September 30 of this year, an extraordinarily early date, and then on June 30, 1998. If we take the fork that leads to withdrawal on a date certain, it is axiomatic, it is without doubt that our NATO allies will follow us on the way out. They have said repeatedly: We went in together; we are going to go out together. This will probably lead either to the renewal of violence, bloodshed, genocide, rule of those willing to deploy the most savage force. At least I would guess it will lead to partition.

Some will say that does not matter, but I believe it matters a great deal, not just to the people of Bosnia but to stability in Europe, which has always mattered to the United States—in fact, drew us into two world wars in this century at the cost of thousands of American lives.

I have always seen our involvement in Bosnia as preventive. It is an attempt to prevent a wider conflict that would cost us more in blood, American blood, American lives and, yes, American money. As Ambassador Holbrooke recently pointed out in a letter in Foreign Affairs:

> A single Bosnia with two entities was the essential core of the Dayton agreements. The boundary line was to be similar to a boundary between two American States rather than a boundary between two nations. But the Serbs were at Dayton under duress and few expected they would voluntarily accept such a concept. Indeed, they have acted to undermine execution of the political and economic tasks, and are trying to turn the boundary line into a line of partition and ultimately into one of complete separation.

Mr. President, why is partition, which I would see as the least devastating result of a hasty American retreat from Bosnia, why is it wrong? In my opinion, it is wrong morally, strategically and politically. Partition of Bosnia would be morally wrong because it would reward the aggression and the genocide that all of us have decried. But it would also be dangerous.

Partition is strategically wrong because it contains within it seeds of violence. The history of places where partition has occurred is sad and bloodied, and they all continue to draw us into their sadness and blood. Ireland and Cyprus are examples that still threaten America and threaten the international order as a result of partition after many decades. The problems engendered by partition in Bosnia would, in my opinion, be even worse because Bosnia would end up partitioned not just into two parts but into three parts—the Muslim part, the Serbian part, and the Croatian part. The endless battles over the partition lines would have a high probability of impacting others in the neighborhood—Albania, Greece, Bulgaria and Macedonia. And partition is particularly politically wrong because it would send a profoundly undesirable signal to ethnic activists in other places where boundaries were arbitrarily drawn and which politically divide historic ethnic groups, and that is that aggression will be rewarded with partition.

Mr. President, if we were to withdraw in June 1998, let alone September 30, 1997, without successful implementation of Dayton's civil tasks, the Serb strategy will have succeeded. The fact is that, setting these amendments aside, soon we will conduct the first of the periodic assessments of SFOR, the follow-on force to IFOR. While these assessments might be envisioned by some as opportunities to determine if we can withdraw our forces even faster, I believe we should use them in an orderly, thoughtful way as opportunities to conduct a real debate about how we can successfully conclude all the tasks laid out at Dayton and achieve the objective we agreed on: A single Bosnia, where peace, justice, and the rule of law prevail.

Mr. President, there are lives on the line here and they are American lives as well as Bosnian lives. We ought not after the money we have invested, the lives we have risked, the conflict we have stopped, the blood we have saved, the order we have returned to Europe, the larger war we have avoided, by virtue of an amendment not heard by the relevant committees direct the end of

what up until this time has been a signal act of American leadership, American courage, American preventive diplomacy, American force used in the interest of peace and order and justice.

So I strongly oppose the amendment, and I urge my colleagues to do the same. I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise in strong opposition to both of these amendments, notwithstanding my great respect for the Senator from Wisconsin, and I mean that sincerely. I have great respect for him. But I think this is another in a series of bad ideas this floor has produced over the last 5 years with regard to Bosnia.

Mr. President, I echo the sentiments expressed by my friend from Connecticut. Let me say it in a slightly different way. In my view, we could have avoided the tragedy, the extent of the tragedy in Bosnia, had we the courage, the foresight to lift and strike 4 years ago, had we stood up to that war criminal Milosevic in Serbia and had we made clear to Tudjman in Croatia that we would broker no alternative but their ceasing and desisting. Every time America has spoken and followed up its speech with action, we have produced the results that we suggested would occur.

It is a sad commentary, Mr. President, that there is no leadership in Europe. There is no leadership in Europe. And the ability of the Europeans to get together and solve the problem in their own backyard and keep it from spreading into other people's front yards is nonexistent based upon their actions for the previous 5 years, until the United States led, but led at a moment and a time when our options were reduced relative to the ones that existed a year or two earlier.

The Senator from Connecticut and I initially never argued that American troops should be put on the ground in Bosnia. We felt very strongly that could have been avoided had we used our airpower, had we lifted sanctions to allow the Bosnian Government—that at that moment was still multiethnic—to have a chance to fight for itself. But that is water under the bridge. That is past. We are left with Dayton, which was making the best out of a bad circumstance. The end result of Dayton is that we will have invested about $5 billion by September of this year, plus America's prestige and American forces on the ground in Bosnia.

I must tell you straight up, I am opposed even to the administration's announcement that we withdraw and have a drop-dead date for June 1998. But I think it borders on the ridiculous for the U.S. Senate to instruct the President that we must withdraw as early as the initial proposal called for, in September.

Mr. STEVENS. Will the Senator yield right there?

Mr. BIDEN. I will be happy to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I ask the Senator if he would kindly do us the favor and not turn this into a motion to instruct. It merely says "no funds can be spent after June 30, 1998." I say to the Senator from Delaware, there are no funds available after September 30, 1997, under this bill. The amendment is merely a sense-of-the-Senate resolution in disguise.

Mr. BIDEN. Mr. President, I thank my friend from Alaska. He is absolutely correct. What he has said, as I translate it, is this amendment does not mean anything in the legislative sense.

But I promise you, I promise you, if this amendment passes today, it will mean something to the Republika Srpska; it will mean something in Mostar; it will mean something in Belgrade; it will mean something in the Balkans; it will mean something in Paris; it will mean something in Moscow. It will mean something where it matters, and what matters is what the rest of the world believes our resolve is.

We sometimes do not focus closely enough, and I acknowledge I do not, as well. But we have a situation in Croatia right now where the President of Croatia is very ill. To call him a very strong man is putting it mildly, and it connotes everything that goes along with strongman, a guy who is no box of chocolates. There is already a battle for succession going on in Croatia between the nationalists, those who to this day wish to see the partition of Bosnia, and those who are democrats, who want to become part of the West.

If we announce now that the U.S. Senate want American troops out of there, either this September or next June, we give succor to those in Croatia who will argue the following: "With the United States gone, no peace can hold, partition is the answer, and we are going to get our piece."

The same is taking place in Belgrade. Milosevic is a war criminal. He is a thug. Remember the history of why this war took place in the first place. What happened there was, in effect, a referendum as to whether or not Bosnia would stay part of Yugoslavia. There was a vote. The voters said we want to set up an independent nationstate. They set it up, recognized by the United Nations, and Milosevic sent the Yugoslav National Army across the river. He supplied and gave cover for the use of force against the Muslims and Croats, and he instituted a war of aggression. He and his cronies instituted a policy of ethnic cleansing, a phrase I do not think any of us ever thought we would hear again. They actually talked about it out loud. That was their policy.

Mr. President, our good friend, Mr. Milosevic, is on his last legs in Belgrade. Why, at this moment, are we going to indicate to him that there is a consensus in this country that the United States should walk away? Why are we going to do that now? What possible good would that do?

Secretary Cohen, a man we all respect, has guaranteed we will be out of Bosnia in June 1998. He has said this in private meetings, in private arguments with me, and in public discussions. The President has said it. Madeleine Albright has acknowledged it. As I said, I think that, in and of itself, is a mistake. For us to come along now and announce to the world that we are not going to appropriate moneys is a mistake—and I acknowledge these are moneys we could not appropriate anyway. But they are not going to understand all that. All they are going to understand is that the United States of America, the U.S. Senate, has told the President he has to get out of there.

I echo the phrase my friend from Connecticut used. He said, when has it ever made sense for us, in a circumstance where there is the potential for or the immediate past presence of war, to announce that we are going to leave and give a lead time to that announcement? When has that ever benefited us?

Our only hope for the peace process is to continue to have an international force remain in Bosnia through June 1998. At least through June 1998. By then, several things will have shaken themselves out, one of which is the political situation in Croatia and the other is the political situation in Serbia.

I am going to refrain from doing what I want to do, speak in more depth about this, because my friend from Alaska is technically right. He is right that this does not mean anything legislatively. I just want it to be known that there are voices in the Senate that think this is a very bad policy. When this amendment is written about, when this is discussed in other capitals of the world, they should understand not all of us share this view.

This is not a sound policy. At this moment, it is my hope and expectation that the administration is leaning on our European allies to make it clear to them that we are willing to support a European-led follow-on force in Bosnia, composed of European troops, after the SFOR mandate ends. Remember what we said: We are going to remove American forces from Bosnia. We did not say we are disengaging in every military sense from Bosnia. The President did not say that, thank God, and I hope he will not say that.

What we should be doing now, and what I hope we are doing now, is meeting with our NATO allies to explain to them that we are willing to have a forward force based in Hungary to back

them up. We are willing to use our airpower and our intelligence apparatus to assist them. We are willing to use the capacity of our naval forces in the Adriatic to help maintain peace and security in Bosnia. This takes time. This amendment undercuts every possible option that exists between now and June 1998 by announcing now that the U.S. Senate does not support the continued presence of the United States of America in that part of the world.

I do not fully understand what both my friend from Wisconsin and the Senator from Texas are saying. I acknowledge the Senator from Alaska is correct. This is meaningless in a legislative sense. But I do not understand what my two friends hope to accomplish here. Their amendment says, "Provided further, that none of the funds made available under this Act may be obligated or expended for operations or activities of the armed forces relating to Bosnia ground deployment after June 30, 1998."

Does that mean we cannot use our intelligence apparatus? Does that mean we cannot have forward deployment in Hungary? Does that mean we cannot use our airpower? Maybe it does. Maybe it does not. But I tell you one thing: To merely suggest that we are going to pull out U.S. ground forces is a bit disingenuous as well.

So, again, I do not want to take any more time of the Senate except to say that this is a well-intended, very bad idea. It is a very bad idea. It does not serve U.S. interests. It does not serve us or aid us in our ability to lead an alliance in carrying out its responsibilities in Europe, in Bosnia. And it does not lend any support to those in both Serbia and in Croatia who are trying to change the political landscape of both those countries, which will have an impact upon the circumstance in Bosnia.

So, again, I say as I yield the floor, with due respect to my friend from Wisconsin, I think this is a serious mistake. I hope the Senate will not go along with this suggestion.

I yield the floor.

Mr. JOHNSON. Mr. President, I have to my right a satellite image of the James River in South Dakota; on the left, depicting the river in its normal course prior to the flooding. On the right is a satellite image showing the current state of the James River—swollen, in places miles across, with water in a circumstance where less than 5 percent of the farmland in the James River Valley, from North Dakota to Nebraska, will be planted this year. This imagery was provided by the aerial data center in South Dakota. I think it very ably shows the dire circumstances that people in the James River area are facing.

Amendment No. 70 is an amendment offered by myself and by my colleague, Senator DASCHLE, which addresses the extensive damage that has taken place in the James River Valley and which needs to be addressed. This amendment addresses the problem, where up to 75 percent of the trees in this area have been lost, where bank sloughing and levee sloughing has filled the channel and reduced its capability to handle water. The amendment would provide a $10 million appropriation through the Corps of Engineers to the James River Water Development District to use for the badly needed repair and restoration work on the James River.

This is a 25 percent cost share. I am pleased that this amendment has been cleared and approved by the majority and the minority of the Environment and Public Works Committee. I thank Senator CHAFEE and Senator BAUCUS and their staffs for their willingness to work with us on these amendments. I also thank the appropriators, Senator STEVENS and Senator BYRD, Senator DOMENICI and Senator REID from the Energy and Water Appropriations Subcommittees and their staffs, for their willingness to work with us on the language of this amendment, and to accept it as part of the supplemental appropriations legislation being considered by the Senate today.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. I would like to take this opportunity to respond to remarks in opposition to Senator HUTCHISON's amendment by the Senator from Connecticut and the Senator from Delaware.

Let me, first of all, reiterate a couple of points about my attitude and the attitude of most Senators about this amendment and its purpose. First of all, no one can even begin to criticize what a wonderful job our troops and our military have done in Bosnia. In fact, all we can do is offer praise and gratitude. I feel that way, in particular, about the wonderful job some of our folks from Wisconsin, whom I have had a chance to speak with about this, have done.

Second, I want to reiterate that I believe this mission has accomplished some very, very positive things. It certainly has not accomplished all that would have been hoped. But to suggest somehow that this mission has not accomplished anything in terms of saving lives and in terms of trying to resolve the situation would be wrong, and I do not suggest that.

I also want to acknowledge that the two Senators who spoke in opposition to the amendment, the Senator from Connecticut and the Senator from Delaware, are two of the great leaders on this issue, two of the most compassionate Senators when it comes to being concerned about the tragedy in Bosnia, and I learned that fast when I came here to the United States Senate. I wish that we could be in agreement on this particular issue about how long this mission should continue, because we have been allies on many aspects of the Bosnia operation in the past.

In fact, Mr. President, I just remind my colleagues that when I arrived here in 1993, the first resolution I ever submitted, was to simply lift the arms embargo that was being enforced against all the areas in the region, all the people in the region, but, in particular, the Bosnian Muslims.

The reason I came to that position was because of the inspiration of the Senator from Delaware who had taken the lead in developing the concept of lifting the arms embargo prior to my arrival in the Senate. When I got here, I joined with other Senators, in fact, I think I was the first one in that Congress to introduce a resolution to lift the arms embargo. The Senator from Connecticut and the Senator from Delaware and I and others all got up and talked about the important right of self-defense, the importance of people being able to defend themselves. We thought that they should be given arms to defend themselves, the right that they have, I believe, under unalienable human rights and under article 51 of the U.N. Charter to defend themselves. That is where many of us wanted to go.

As the Senator from Connecticut indicated, we tried very hard. We won a vote on the Senate floor on a bipartisan basis, although, regrettably, it was not carried all the way through. I still believe that was the best answer to this situation. But, we did not get that done in a timely manner and, as a result, I think we were essentially forced into the Dayton accord. I think some of our European allies made sure, in effect, that we would be forced into sending troops into the region.

So when many of us spoke about the importance of lifting the arms embargo, we discussed that it was the right thing for the Bosnians. But it was a way to prevent us from becoming ensnared in a military operation that we would not be able to get out of, where American men and women would be forced into a situation where an endgame or departure justification would be difficult to find.

That is how we got to where we are today, unfortunately. That is why I have offered this amendment, and I believe it is one of the reasons the Senator from Texas has offered her second-degree amendment.

When the Senator from Connecticut—and I say this with all respect, because I simply know no one who is more concerned about the situation, and I know at a very personal level as well, as a Senator, that he cares as deeply, perhaps more deeply than any other Senator about what is going on in Bosnia—but when he says it is inconceivable that we would try to

do this on this bill in this way, let me suggest what I consider to be inconceivable.

It is inconceivable to me that we would not have a clear debate on this issue when the initial understanding that was given to the American people about this is that it would cost $2 billion and be over within 1 year. I took every opportunity I could in the Foreign Relations Committee and in every other meeting that I had on this subject to ask the question: Is it truly the intent to be out of there in 1 year? And the answer was always yes. Even when it was just a few months before the December 1996 deadline, I asked many leading military and State Department officials about this. I said, "Is it going to be over in a year?" And they said, "Well, yes, give or take a few weeks."

The American people and the Congress were led over and over to believe that this was a 1-year operation.

Then, really quite quietly, it was extended. It was extended by 18 months beyond that deadline, to a minimum of June of 1998. And even then, when I asked whether or not that is the end of the line for this operation, the remark has been simply, "We hope so, we think so, we think it's possible."

What is also inconceivable to me is that we add another $1.5 billion in this supplemental bill and then tell the American people what we are on track to do is to spend not just $2 billion—in fact, we are already in for $3 billion—but that the minimum estimate now is $6.5 billion through the middle of 1998. To me it is somewhat inconceivable that we would simply move in that direction without a full and thorough debate with regard to these numbers.

Where is the public accountability on this? Where is the congressional accountability with regard to the expenditure of those kinds of funds and with regard to the duration of an operation that was promised to be over within 1 year?

Others have suggested today that somehow this is an unprecedented kind of amendment, but all I can do is refer my colleagues to what we did when it came to the Somalia operation. The distinguished Senator from West Virginia offered an amendment, which we voted on on October 15, 1993, that provided for a cutoff date for the expenditure of funds with regard to Somalia.

No one knows better the power of the purse of the Congress than the Senator from West Virginia, and he knows that that is the heart and the soul of congressional power when it comes to military operations. Both the Senator from Connecticut and the Senator from Delaware voted for the amendment that Senator BYRD offered that would cut off the funds for Somalia by a date certain. We signaled what we were going to do in that situation —we signaled it clearly—because we knew that it was time for us to get out.

You know what is sad about that one. In the Somalia case, we waited until something bad happened. We waited until a tragedy occurred. We waited until we had essentially no choice but to extricate ourselves from a situation that became a mess. I am very pleased to be able to say today that we are not in that situation yet in Bosnia. I hope we never will be. But to wait for that moment to signal clearly when we intend to get out is the worst thing we can do in terms of our credibility in the world. To wait for a moment like that and then just run out of Bosnia because the public support may evaporate is the worst thing we can do in terms of our credibility. I do not think any of us regard what happened in Somalia as one of the finest hours in our diplomatic, military or foreign policy moments.

So, Mr. President, let me simply say that this is a situation where we all have to decide whether we are just going to let this $1.5 billion go forward without asking serious questions. The Senators who are opposed to me and Senator HUTCHISON on this said we have not had proper hearings on our amendment. They have indicated they want to have a real debate on this matter.

That is the whole point.

We have not had real hearings on this. We have not had a real debate on whether we should spend $6.5 billion on Bosnia by the middle of 1998 or on the possibility of even more. We have not had a real national discussion about whether we should go forward with this. I think the American people and the Congress should be engaged in that kind of discussion.

So let me conclude by saying that I think this amendment is appropriate. It does not go too far. It does not hamstring our military. There are opportunities for providing more funds later, if needed, for extending the operation, if needed. All this does is signal that neither this body nor this country is going to simply let this continue without any real consideration and public debate of where we are heading—especially since the operation is already costing $6.5 billion and has already more than doubled the duration that was originally promised.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we should be signaling two things relative to Bosnia, in my judgment. The first is what this resolution would signal, which is that it is our intent to have our ground combat forces out of Bosnia by June of next year. It is important that we send that signal; it is important that we send that signal clearly. But it is also important that we do an additional thing, and that is that we let our European allies and the world know that in the event that there is a need for a follow-on force after June of 1998, that it is the Europeans who must provide that follow-on force and it is not our intention to participate with ground troops in that follow-on force.

Will a follow-on force be necessary? I think it will be. I have visited Bosnia. I have spent a lot of time there. In my judgment, there is no way that millions of refugees can be repatriated to their homes, that war criminals can be captured and tried by June of next year. If there is no follow-on force in Bosnia, the likelihood is that the progress which has been made will disintegrate and will evaporate, and then what we have done in Bosnia will have been to no avail.

We have accomplished some very important things in Bosnia, and we should try, if we can, to protect them, but—and here I agree with the Senator from Wisconsin—we should carry out our mission, which ends in June of 1998, signal to our allies clearly and tell them in advance that it is our intention that our ground combat forces will be out of there in June of 1998, but that we would expect that they would show some leadership under a new component of NATO, called the European Security and Defense Identity, to provide the follow-on forces which might be needed after June of 1998.

Can we do both of those at one time? Can we say that it is our intention that our own forces on the ground leave by June of 1998 but that we expect there is a need or a likely need for a follow-on force and we would be supportive of that force—without having our own troops on the ground—through logistics and intelligence and other means of supporting a European follow-on force as part of NATO? Can we signal both of those things at once? I believe we can. I believe we should. I believe this resolution does not do that, and that is the difficulty with this resolution.

Because of the nature of postcloture that we are in, it is restricted in language to what it says, which, as the Senator from Alaska points out, really has no meaning whatsoever since none of these funds will be spent, in any event, after October 1 of 1997. They cannot be and are not going to be.

So in one sense this resolution has no legislative meaning whatsoever, through no fault of my friend from Wisconsin, by the way. He had no choice. In order to be germane in a post-cloture situation, he had to phrase it this way.

But the signal that he wishes to send is an important signal, one that I happen to want to join him in sending, providing it can be sent with a second signal which is so critical that we send, which is that a new initiative inside of NATO be utilized for any follow-on force, and we are willing to support that or at least are open to supporting

that European initiative inside of NATO.

I want to spend just a couple of moments on that initiative. It is not well known. It is an important initiative. The Europeans have asked for additional leadership in NATO for many, many years.

Finally, at the June 1996 Berlin North Atlantic Council ministerial meeting, there was a new initiative adopted, as part of NATO. It is called the European Security and Defense Identity initiative [ESDI]. What it does, it permits the European NATO nations—these are our allies in NATO—with NATO consent, to carry out operations under the political control and strategic direction of the Western European Union, using NATO assets and NATO capabilities.

So using NATO assets and capabilities under the strategic direction of the Western European Union, a European initiative is being put in place as we speak.

What NATO has agreed to do is to identify the types of what are called separable but not separate capabilities, assets, headquarters, and command positions that would be required to command and conduct these Western European Union-led operations and which could be made available, subject to unanimous consent agreement in the North Atlantic Council.

In addition, NATO agreed to develop appropriate multinational European command arrangements within NATO to command and conduct the Western European Union-led operations.

And, finally, in support of these arrangements, NATO agreed to conduct, at the request of and in coordination with the Western European Union, military planning and exercises for illustrative missions which were identified by the Western European Union. Included in those missions are humanitarian assistance, conflict prevention, peacekeeping, and peace enforcement operations. All from peacekeeping to peace enforcement are included in the missions which are now being organized.

The ability of our European allies to work together so professionally in Bosnia, with French and British commanders responsible for two of the three multinational division sectors and with the overall American commander having a multinational staff, convinces me that there is no reason to question the ability of a European-led follow-on force to succeed in Bosnia. There is no reason, either, why the Partnership for Peace nations should not be included as they have been in Bosnia in both IFOR and SFOR.

So we have a mechanism now which is being planned to provide, or which could provide, to be more accurate, the follow-on force to be sure that peace does not unravel in the European neighborhood. The United States should remain involved with logistics, intelligence, and other support activities. But under this resolution there is no provision for that.

This resolution, because of the way it had to be phrased, ends up saying that none of these funds can be obligated or expended for the activities of armed forces relating to Bosnia ground deployment.

Well, should we not consider at least a provision of intelligence support, logistics support, other support activities for a European follow-on force? I think we ought to.

During the Armed Services Committee hearing in February on the defense budget, Secretary Cohen responded to my questions by stating the following:

> I would agree with you that following our departure in June of 1998, I believe there has to be some sort of force in Bosnia. I do not think there is any possibility of ending so many decades, if not centuries, of ethnic conflict in a matter of two or three years.

Secretary Cohen continued:

> So I think some international type of a force will be necessary. I agree with you that the ESDI, the so-called European Security and Defense Identity, is something that is very worthwhile to pursue.

And he added:

> I think it is something we should pursue and make it very clear we are leaving and that something will have to replace it, and hopefully it will be something along the lines of the ESDI.

That is a double message, not a single message.

The amendment before us, regrettably, has the first of those two messages only and is not able to cover the second part of that message. That is the difficulty with the pending resolution, in my judgment.

General Shalikashvili, who was there with Secretary Cohen, said the following:

> Following our departure in June 1998, it is very possible that a follow-on force will be required. I think a European force under the WEU is certainly an appropriate candidate for that.

So he, too, reached the same kind of conclusion.

So, Mr. President, I think that we should not at this time state in resolution form or any other form that we will not be willing to play a supporting role in Bosnia after June 1998. Because, after this operation is, hopefully, turned over to our NATO allies, assuming it continues at all, which I think is likely then acting under the Western European Union, they, I believe, will need this kind of support—not our combat forces on the ground—but those other kinds of support. And that is the complexity which is not reflected in this resolution.

Finally, it is my intent during the consideration of the defense authorization bill to be offering language along the lines that I have just described. I hope that at that time we can have the kind of full debate on the future of our forces in Bosnia that this issue really requires.

During the authorization bill, that debate can take into consideration both the need, in my judgment, to make the clear statement to our allies in Europe that it is our intent to be out of there in June 1998, but can also outline what we would be willing to do should they determine to stay on after June of 1998 in Bosnia. And while it is complex, it is essential. While it has two points to the message, both points are, nonetheless, essential.

So I think, because this resolution is too narrow in its scope and sends only one of two messages and it is essential that both be sent simultaneously, that it would be a mistake for us to adopt this resolution at this time in this form. But I would look forward to my friend from Wisconsin working with us in the Armed Services Committee to design a resolution which does contain the message that he has in his amendment but also the second part of that message as well.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I will be very brief because I think I may be the last person to address this amendment tonight.

I first want to acknowledge the contribution made in the debate by Senators LEVIN, LIEBERMAN, BIDEN, and others who spoke so eloquently about the reasons why this amendment is ill-advised. I have great respect and admiration for the distinguished Senator from Wisconsin and the Senator from Texas, but I must say, passage of this amendment, as well intended as it might be, is unwise. First, as the Senator from Alaska has noted, this amendment has no real legislative effect because it appropriates money only for this fiscal year ending September 30, 1997. But it does have a profound effect in the message it sends to people around the world, especially in that part of the world most directly affected by our actions and by our intentions.

For us to say unequivocally that regardless of circumstance, regardless of the situation, regardless of whether or not there is peace and the kind of stability we have been able to achieve now in the last couple of years, that we are removing every vestige of U.S. military presence, in my view, sends exactly the wrong message.

We need to be very careful about the message we send. We need to ensure that our military presence there has the maximum effect for as long as it may be required. It is somewhat ironic to me that the same people—and I am not referring to any particular Senator in this regard—but many of the same people who advocate a permanent presence in NATO where we do not see any

specific need for a U.S. presence today are those who are arguing against our presence in Bosnia.

Mr. President, I think our military efforts in Bosnia have been a spectacular success. And they have been successful because we have had strong, bipartisan support in Congress for our military presence that sends a clear message to the people in the region.

That message says clearly that we want the genocide to stop. We want the warring parties to come to terms. We want to recognize the extraordinary effort that has already been made by those who are putting their lives on the line to ensure that we succeed in retaining the peace and stability and long-term political viability of the region.

U.S. policy through the Dayton accords has succeeded stopping the killing in Bosnia and in helping Bosnians forge longer term stability. We have succeeded in doing something of great consequence. I just hope that we recognize what a tremendous contribution it has been. While we all want to see that day when the United States forces are no longer deployed in Bosnia, we want them to come home with confidence, knowing that, regardless of whether we are there or not, we will continue to see the kind of success that we have experienced since implementation of the Dayton accords began in December 1995. But for us to say with certainty today that we know exactly when that date is, is shortsighted and ill-advised. I hope for those reasons the Senate will reject that amendment.

I yield the floor.

Mr. McCAIN. Mr. President, I join the Senator from South Dakota in his remarks.

Mr. President, I think I am going to have to call for the yeas and nays on this amendment because I think it is of serious import.

I also believe that we should be out of Bosnia. I had severe reservations as to going in. I ended up supporting the President, as did the former majority leader, Senator Dole. But for us to say that unequivocally under no circumstances will American presence be there a long time from now, I think would be, from a precedent-setting standpoint, very dangerous and, second of all, would be a message that I am not sure we want to send at this time.

There are some very bad people in Bosnia, Mr. President, as we all know. And if the administration was unequivocally on record or the United States Congress was on record as saying that under no circumstances could there be an American presence in Bosnia as of a certain date, I think it would have the unintended consequence of encouraging those very bad people.

Mr. President, I think it is something that we should work out with the administration. It is well known that the present Secretary of Defense, a former Member of this body, has stated we will be out by June 1998. But that is not a firm administration policy. And there are certain proposals as far as a United States presence is concerned, both on sea and in the air, as well as possibly in a neighboring country. I am not sure that this amendment would not affect those options as well.

The distinguished chairman of the Appropriations Committee points out very accurately that we do not have any money anyway at that time, so this would be largely a symbolic vote. But, Mr. President, I believe that if I were one of our European allies or someone who had an interest in the situation in Bosnia, either as a participant or an observer, I would say that this is a very strong message and one that we do not want to send.

I also remind my colleagues that, yes, we have the right to cut off funding, we have that constitutional right as a body. But it is always the last resort. Cutting off funding is the last resort that we seek in order to salvage Americans when they are placed in great danger.

I suggest that this is the first option. If June 1998 begins to approach and it looks like the administration is in an open-ended commitment, I think we would have plenty of opportunity at that time. We would be considering lots of legislation in order to express our views on this issue. But to act at this time, I think, would send a very, very unfortunate and even dangerous signal.

I was just in conversation with the Senator from Alaska and he pointed out that we did, indeed, cut off funding in the Somalia situation, but that was also with the agreement of the administration that they were leaving at that time. All of us were outraged at the wanton murder of some brave young Americans whose bodies were dragged through the streets of Mogadishu. There is no doubt in that situation there was agreement that we were going to leave.

The Bosnia situation is very fluid, it is very dangerous. I want us out, too, but I greatly fear if we passed a resolution at this particular time mandating such a thing—for example, cutting off all funds—that this would be an action that would have some unintended consequences associated with it. One of the major consequences I just mentioned is to encourage our adversaries and the enemies of peace in that poor, unfortunate land, who, I think, might take this as a signal to just wait, rather than seek national reconciliation, wait until the Americans leave and then really ignite the bloodletting and the conflict.

Mr. President, I have to oppose this amendment, certainly at this time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DASCHLE. 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.

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

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

Mr. STEVENS. Mr. President, I ask that we have the vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The amendment (No. 177) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The amendment (No. 83), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I want to state for the record what I believe the Senate just agreed to in supporting the amendment offered by the Senator from Wisconsin that would prohibit the obligation or expenditure of funds available in S. 672, the supplemental appropriations bill, for operations or activities of the United States forces stationed on the ground in Bosnia.

This amendment in no way endorses the actions taken unilaterally by the President to extend the presence of United States forces in Bosnia for an additional 18 months beyond the 1-year time frame stipulated in Senate Joint Resolution 44.

The President never consulted with the Congress to extend the presence of United States forces in Bosnia, and the Senate has not voted, by accepting this amendment, to approve the President's decision to extend the presence of United States forces in Bosnia until June 1998.

The Secretary of Defense and the Chairman of the Joint Chiefs of Staff testified before the Senate Armed Services Committee in October 1996 that United States forces would not be withdrawn from Bosnia until March 1997. They did not consult with the Congress about this short extension, and they assured the committee at the time that there were no plans to extend the presence of United States forces in Bosnia beyond that time frame. However, they did note for the record that the North Atlantic Treaty Organization was reviewing whether a continued NATO force presence was needed beyond the March 1997 time

frame. The Secretary of Defense and the Chairman of the Joint Chiefs promised that the Congress would be consulted prior to agreeing to extend the United States force in Bosnia. In fact, the President assured the American public prior to the Presidential election in November that United States forces would not be in Bosnia beyond the time-frame necessary to safely withdraw.

Very shortly after the United States elections in November 1996, the President announced his intention to support a decision by NATO to extend the presence of a NATO force in Bosnia to implement the Dayton agreement. Following the recommendation of the NATO that a NATO presence remain in Bosnia, the President announced in December 1996 that United States forces would remain in Bosnia, as part of a NATO force until June 1998.

Once again, I want to emphasize what agreeing to this provision does not do—it does not provide congressional approval for the President's unilateral decision to extend the presence of United States forces in Bosnia beyond the 1-year time frame he announced in November 1995 to the American public.

The President has not consulted with the Congress on his decision to extend the participation of United States forces in a NATO operation in Bosnia. The President has not sought approval of the Congress for that decision to extend the presence of United States forces in Bosnia until June 1998. The Senate has not provided its approval, or authorization for the President's decision to extend the presence of United States forces in Bosnia. The amendment merely ensures that U.S. forces are taken care of, until such time as they are withdrawn in June 1998, whether or not substantial progress is achieved in the civil implementation of the Dayton agreement, as the President promised. The amendment does not constitute congressional authorization or approval to extend the presence of United States forces in Bosnia.

Mr. FAIRCLOTH. Mr. President, I want to make clear, that had the Senate taken a rollcall vote on Senator HUTCHINSON's amendment to Senator FEINGOLD's amendment, I would have voted no on the Hutchinson amendment. I want our troops home as soon as possible, and I am strongly supportive of any effort to bring them home as quickly as possible.

The President promised that our troops would be home in December 1996. He clearly mislead the Congress and the American people when he made this promise.

Only after the election was over did the President make his decision to extend our troop deployment, even though he knew full well that our troops would not be coming home in December, well before the election.

The Bosnian mission is going to cost the taxpayers of this country $6.5 billion. The question is what will be changed after our troops have been there this long, and we have spent this amount of money. I contend that little will be changed. When the deployment was made, a principle question was whether the United States had an exit strategy. It now appears that we may have no exit.

Again, I was strongly supportive of the Feingold amendment, and I would have liked to have seen it passed without change.

AMENDMENT NO. 97

(Purpose: To extend the dredging participation in the Small Business Demonstration Program Act of 1988)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BUMPERS, for himself, Mr. BOND, and Mr. WARNER, proposes an amendment numbered 97.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriations place add the following new section:

"SEC. . EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.

"Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking 'September 30, 1996' and inserting 'September 30, 1997'."

Mr. STEVENS. Mr. President, this is a simple amendment which extends the expanding small business participation in dredging section of the Small Business Competitive Demonstration Program Act of 1988 to September 30, 1997.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 97) was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 76

(Purpose: 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 require the Secretary to report to Congress on the rate of reporting compliance)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SPECTER, for himself, Mr. SANTORUM, Mr. FEINGOLD, and Mr. KOHL, proposes an amendment numbered 76.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture 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 maximum extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transactions separately.

(b) CONFIDENTIALITY.—All information provided to, or acquired by, the Secretary under subsection (a) 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.

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary shall report to the committee on Agriculture, and the Committee on Appropriations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations, of the Senate, on the rate of reporting compliance by cheese manufacturers with respect to the information collected under subsection (a). At the time of the report, the Secretary may submit legislative recommendations to improve the rate of reporting compliance.

(d) TERMINATION OF EFFECTIVENESS.—the authority provided by subsection (a) terminates effective April 5, 1999.

Mr. STEVENS. Mr. President, I ask that Senators SANTORUM, FEINGOLD, and KOHL be added as cosponsors.

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

Mr. FEINGOLD. Mr. President, I am an original cosponsor of amendment No. 76, offered by the Senator from Pennsylvania [Mr. SPECTER] which requires the Department of Agriculture to collect and disseminate, on a weekly basis, statistically reliable information

on bulk cheese prices throughout the Nation. Secretary Glickman has already initiated this price survey with the voluntary cooperation of cheese manufacturers using existing administrative authorities of the Department. The amendment offered by the Senator from Pennsylvania [Senator SPECTER] requires the Secretary to continue doing so until April 5, 1999. However, because the Secretary has already implemented this cheese price reporting initiative using existing authorities, I wanted to clarify that he can continue to collect and report this cheese price information after April 5, 1999 using the same authorities he is using currently.

Does the chairman of the Senate Agriculture, Nutrition and Forestry Committee, Mr. LUGAR, concur that the sunset provision in section (d) of amendment No. 76 in no way affects or diminishes the Secretary's existing authority to continue the voluntary collecting and reporting of cheese price information from cheese manufacturers after April 5, 1999?

Mr. LUGAR. I concur with the Senator from Wisconsin [Mr. FEINGOLD].

Mr. STEVENS. Mr. President, this deals with the collection and dissemination of information on prices received for bulk cheese. It requires the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and requires a report to Congress on the rate of reporting compliance.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 76) was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NICKLES. Mr. President, earlier today, I voted against the D'Amato amendment, which would reinstate SSI benefits for legal nonresidents. I think 11 Senators voted against that amendment.

Mr. President, I rise to make a statement about why I voted against that amendment. I know a lot of people said they voted for it because it is part of the budget package that was agreed to by the leadership of Congress and the President. They wanted to reinstate that. They said they might as well do it anyway because the budget is going to pass and the benefit will be reinstated. That may well be. These individuals will lose their benefits for 2 weeks in August and the month of September—6 weeks—if that happens. But I didn't think that was the reason why it should be put in the urgent supplemental.

Some colleagues probably voted with me on that because they didn't think it belonged in there, that it can be included in the budget package. It may well be included in a budget package. That is when we will do the entire budget.

So my point is—I informed my colleagues on this side of the aisle—if we have other amendments on this supplemental that try to pull out various pieces of the budget package and put it into the supplemental, and they say, "Everybody has agreed, the leadership has agreed, that we are going to spend more money for education, let's go ahead and put it in the supplemental, we are going to spend more money for children that do not have health care, we will put into a supplemental"—I disagree. This is supposed to be an urgent supplemental. It is supposed to be helping people with disaster assistance, and not to be prefunding part of the budget package.

At least I for one—and I am the only one—in the future, if we find other amendments that try to maybe prefund the budget agreement, I am going to object.

Also, I want to touch on this a little bit. Some people said, "Well, we need to undo part of this welfare package." I happen to be one that disagrees with that. We passed significant welfare reform, and I think rightfully so. We said, yes, we are going to provide more benefits for citizens than noncitizens. Somebody said they are here legally. That is correct.

Let me give a couple of facts. Since 1882, an alien who was likely to become a public charge has been subject to exclusion from the United States. Since 1917, an alien who becomes a public charge within 5 years of entry has been subject to deportation from the country. That continues to be the immigration policy, that aliens within our Nation's borders should not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families and their sponsors. That is the way it should be.

Families of immigrants who enter the United States signed affidavits of support. By these affidavits of support they pledge to provide for the immigrants themselves and not put them on public assistance. That is a pledge. That says they will not become a public charge. That is to make sure that when people come to the United States, they are seeking citizenship and freedom, and not seeking welfare.

We found with this program, unfortunately, despite these policies, that large numbers of sponsors have failed to live up to their obligations, both their moral obligations and their financial obligations.

Just a couple of facts: In 1986, just over 200,000 noncitizens were receiving SSI welfare benefits. In 1996, that figure had grown to 800,000, 4 times as many in a period of 10 years. It didn't double or triple—4 times as many; it went from 200,000 to 800,000 in the last 10 years. The Social Security Administration predicts that the number of noncitizens receiving benefits would grow to 1 million by the end of the decade.

So this is exploding. A lot of people are bringing their families over, saying, "Yes, you can be on welfare. You can be on welfare for life. You get cash payments, cash assistance, several hundreds of dollars per month, and be eligible for Medicaid concurrently." It is a pretty good deal. A lot of people said, "I want in on that." So they would come over and totally ignore the affidavits of support that they and their families pledged they would not became a public charge.

In the welfare bill that we passed last year, they should get around this by becoming citizens. Now, I know a lot of people are becoming citizens. Some people said, "Well, the States don't have the resources. Not everybody can become a citizen." You have minimal English requirements. Maybe they are not able to make that. The States save millions, and collectively the States save billions of dollars in the welfare changes we made last year. There is plenty of money to provide assistance to those people that really need some help.

Total noncitizen applications for SSI alone increased almost 600 percent from 1982 to 1994, compared to just a 49-percent increase amongst citizens. Most noncitizens apply for welfare within 5 years of arriving in the United States.

Mr. President, I want to make these comments. I know that in the budget package we have—I hope that we will pass a budget package—we are going to address this issue. I know, in all likelihood, for most noncitizens we will be continuing SSI payments for those noncitizens who are already here or already here at the time of enactment of the welfare bill. That may well be. I might support it as part of an overall package.

But I voted in opposition to this being added to the supplemental because I didn't want to cherry-pick a few of the things out of the budget package and say, "Let's put it on this supplemental too." This wasn't going to happen. No one would lose benefits now for another 3 months. Our objective is to pass the reconciliation bill to

implement the balanced budget by July 4, a full month and a half before you would have discontinuance of benefits. So we would have time to rectify the situation if we have not reached the budget agreement.

So, Mr. President, I just make mention of that, and maybe forewarn my colleagues. At least this Senator's intention is to object strenuously if future efforts are made to put parts of the budget package onto this urgent supplemental.

Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

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

AMENDMENT NO. 107

(Purpose: To strike earmarks for unrequested highway and bridge projects, parking garages, and theater restoration)

Mr. McCAIN. Mr. President, I call up amendment No. 107.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. McCAIN) proposes an amendment numbered 107.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 39, starting on line 22, strike all that appears after "1997" through page 40, line 21, and insert in lieu thereof ".".

On page 42, starting on line 11, strike all that appears through page 43, line 4.

Mr. McCAIN. Mr. President, this amendment strikes earmarks to fund for highway projects:

$3.6 million for the 2002 Olympics planning in Utah;

$450,000 for the ATR Institute to continue the Santa Teresa border technologies project in New Mexico;

Additional funding for Warrior Loop project in Alabama;

$12.6 million to complete the William H. Natcher Bridge in Maceo, KY;

Additional funding for Highway 17 Cooper River bridges replacement project in South Carolina;

$100,000 for 86th Street Highway Project in Polk County, IA;

And discretionary authority to spend additional funds to repair or reconstruct any portion of Highway 1 in San Mateo, CA, that was destroyed in 1982 and 1983;

The set-aside of $12.3 million for discretionary authority to construct the parking garage at a VA medical center in Cleveland, OH;

Earmark of $500,000 from previously appropriated funds for a parking garage in Ashland, KY, to instead restore the Paramount Theater in that city.

Mr. President, this supplemental appropriations bill was an emergency appropriations bill. The title, as we all know, is an emergency supplemental bill.

Mr. President, the earmarks I find included in this bill and others are not, in my view, of an emergency status. Let me talk about a few other earmarks that are in this bill.

Language that makes College Station, AR, eligible for rural housing service program assistance.

By the way, Mr. President, I understand that College Station, AR, has been badly damaged by a tornado, and that is probably a project that would qualify under emergency supplemental parameters.

It makes the cost of repairing the Wapato irrigation project nonreimbursable;

$15 million emergency funding for research on environmental risk factors associated with breast cancer. Report language lists Rhode Island, Pennsylvania, New Hampshire, New Jersey, Utah, New York, and California as States which should be considered for "competitive grants." In other words, the other States are not considered for competitive grants.

There is a $10 million earmark for phase 2 of nonemergency transportation planning at Yosemite Valley which is offset by rescission of clean coal technology funding;

$5 million for development of the Legislative Information System in the Office of Secretary of the Senate which is transferred from other Senate appropriations.

Let me say on that particular one, Mr. President, that I think the Legislative Information System in the Office of Secretary of the Senate is important. I do not think it qualifies as an emergency.

Earmarks funds for highway projects, including $3.6 million for 2002 Olympic planning in Utah;

$1.95 million earmarked for Colorado to provide security for the Denver Summit of Eight;

Set-aside of $12.3 million for discretionary authority to construct a parking garage, which I mentioned earlier;

$3 million earmarked from the Justice Department counterterrorism fund for Ogden, UT, preparation for 2002 Winter Olympics.

By the way, Mr. President, we are going to start totaling up how much Federal money is going to be spent on the Olympics in Utah. I would guess that it will match or exceed the amount of Federal dollars that were spent in Atlanta.

Mr. President, I am proud that these Olympics are being held in the United States and that we win these competitions for having the Olympics held here in the United States of America. Mr. President, I think the taxpayers ought to know what the cost is to the taxpayers.

Mr. President, I am reminded, as I look over this list, of the need for the line-item veto.

This is another graphic example of why the line-item veto is necessary. These projects do not qualify as emergencies, yet they are placed in.

For many years I have come down here and complained about this kind of activity. I don't think it does us any good, Mr. President, to do these things and call them emergency supplementals. What it does is provide grist for the talk show mill. It provides ammunition for those who believe we do not act in a responsible fashion. It makes it more difficult for us to go home and say that we are trying to be careful of every dollar we spend that the taxpayers so much care about—things like EPA to provide a Federal grant to Middlebury, VT, to complete a project in 1997;

Direct expenditures for study of flood control mitigation at Lualualei Naval Magazine in Hawaii;

Special emphasis on need for flood prevention efforts at Devils Lake and Ramsey County Rural Sewer System.

We can't afford to do this. We are trying to embark on an effort to balance the budget by the year 2002. We are going to ask the American people to make sacrifices as we embark on this effort. There will be some reductions in spending.

Yet, at the same time we are appropriating $250,000 to replace salmon fry killed during an April snowstorm in New England, and $1.1 million to complete fire restoration at Bosque Del Apache National Wildlife Refuge.

So the bill has grown, I am told, from around $4.4 billion to over $8 billion. Much of that is necessary spending.

Let me repeat again. In no way do I believe that we have any other obligation but to help those people who are victims of natural disasters. We have that obligation. It is a proper role of Government.

If some of these projects that I mentioned are important and worthwhile projects, I believe they should be subject to the normal authorization and appropriations process. So my amendment would eliminate a few of those.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. It is my intention, Mr. President, to move to table this amendment at a later time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BROWNBACK. Mr. President, I rise in support of the McCain amendment numbered 107, and state that I am not here to oppose any of the emergency relief being put forward. I think that is important and I think it is appropriate.

I also think we ought to pay for it as we go along. We are going to every year somewhere in this country have a disaster. Each year we do this and then we have a disaster and we do not pay

for it and it adds to the deficit and we create this mortgage disaster for the country on a long-term basis. We really ought to pay for it. That is another separate debate.

I am here to support this issue and this amendment in removing those items that are not emergency appropriations. I do not want to speak about the validity or the need to do any of these specific projects that are in here. I think that can rest for another day. But the question is, are these emergencies or not? Are they things that should appear in an emergency appropriations bill?

I think Senator McCAIN has articulated very well the list that he has put forward in this amendment. I ask unanimous consent to have printed in the RECORD that list that Senator McCAIN has been working on, and we have worked in support of his amendment, to put this in as a part of the RECORD that these may be good promises.

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

OBJECTIONABLE PROVISIONS IN S. 672, SENATE-REPORTED FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS BILL

BILL LANGUAGE

P. 25: Makes costs of repairing Wapato irrigation project nonreimbursable. [See report p. 22]

P. 32: $15 million emergency funding for research on environmental risk factors associated with breast cancer. Report language lists Rhode Island, Pennsylvania, New Hampshire, New Jersey, Utah, New York, and California as states which should be considered for "competitive" grants. [See report p. 27]

P. 36–37: $10 million earmarked for phase 2 of non-emergency transportation planning at Yosemite Valley (offset by rescission of clean coal technology funding). [See report p. 32]

P. 37: $5 million for development of Legislative Information System in the Office of the Secretary of the Senate (transferred from other Senate appropriations). [See report p. 33]

P. 39–40: Earmarks of funds for highway projects, including: $3.6 million for 2002 Olympics planning in Utah; $450,000 for the ATR Institute to continue the Santa Teresa border technologies project in New Mexico; additional funding for Warrior Loop project in Alabama; $12.6 million to complete the William H. Natcher Bridge in Maceo, Kentucky; additional funding for Highway 17 Cooper River Bridges replacement project in South Carolina; $100,000 for 86th Street Highway Project in Polk County, Iowa; and discretionary authority to spend additional funds to repair or reconstruct any portion of Highway 1 in San Mateo, California, that was destroyed in 1982–1983. [See report p. 34–35]

P. 41: $1.95 million earmarked for Colorado to provide security for Denver Summit of Eight (June 20–22) concurrently with Oklahoma City bombing trial. [See report p. 35]

P. 42: Set-aside of $12.3 million for discretionary authority to construct parking garage at VA medical center in Cleveland, Ohio. [See report p. 36]

P. 42–43: Earmark of $500,000 from previously appropriated funds for a parking garage in Ashland, Kentucky, to instead restore the Paramount Theater in that city. [See report p. 36–37]

P. 47: $3 million earmarked from Justice Department Counterterrorism Fund for Ogden, Utah, preparation for 2002 Winter Olympics. [See report p. 41]

REPORT LANGUAGE

P. 8: Directs transfer of $11.2 million in F–15 program contract savings to fund acquisition and installation of High-Speed Anti-Radiation missile target systems on Air National Guard F–16 aircraft.

P. 13: $10.8 million for emergency expenses to repair damage to fish hatcheries in the Pacific Northwest.

P. 14: Directs Small Business Administration to provide disaster loans for housing repair and replacement in Arkansas even when no local building permit has been granted.

P. 16: Special emphasis on need for flood prevention efforts at Devils Lake and Ramsey County Rural Sewer System in North Dakota.

P. 17: Directs expenditures for study of flood control mitigation at Lualualei Naval Magazine in Hawaii and flood preparedness and warning plan for Reno, Nevada.

P. 19: $250,000 to replace salmon fry killed during April snowstorm in New England, and $1.1 million to complete fire restoration at Bosque Del Apache National Wildlife Refuge, New Mexico.

P. 21: Provides $9.5 million above request for Park Service construction projects, allocated specifically for 8 parks for which no funds were requested and increases funding for 5 other parks above requested amount.

P. 22: Earmarks $486,000 for restoration of Markleeville guard station in region 4 of the National Forest System (Idaho, Nevada, California).

P. 38: Directs EPA to provide Federal grant to Middlebury, Vermont, to complete project in 1997.

Mr. BROWNBACK. These projects may be worthwhile. They may be things that we should finance, even though we are over $5.4 trillion in debt. Maybe they are things we need to do, but they are not emergencies. This is an emergency supplemental. We should remove the name "emergency" from it if that is the case, and we are just going through on a regular supplemental proceedings bill.

I know a lot of people worked very hard in putting these together. At the end of the day, I think as you go down Senator McCAIN's list and ask, is the $250,000 to replace salmon fry killed during an April snowstorm in New England, is that truly an emergency? Are some of the things he listed, spoke about, truly emergencies? I think one would have to conclude under any reasonable review of those that they are not emergencies. They may be things we ought to do, but they are not things we should do here. They are not things we should do in this bill.

I urge my colleagues to vote for the McCain amendment, to not table this issue, and pull these out and deal with these in the regular process in which they should dealt with.

I yield back the remainder of my time.

Mr. McCONNELL. Mr. President, I have come to the floor to strongly oppose the McCain amendment to strike the funding designation for two items I have proposed to the legislation being considered, the Natcher Bridge and the grant redirection for the Paramount Theater in Ashland.

The proponents of this amendment are wrong to characterize these two provisions as wasteful and unnecessary. The fact of the matter is that these are important projects to the communities of Owensboro and Ashland, KY. Elimination of these two provisions will not save a single dime. In fact, this amendment would unnecessarily waste more tax dollars.

Mr. President, in 1992, a special purpose grant was included in the VA-HUD appropriations bill giving $1 million to the city of Ashland to construct a parking garage. City officials have studied this proposal further and determined that it would be more cost effective to purchase existing lots. This alternative will add more parking spaces overall and at a lower price. The city has requested that the remaining funds be used to restore a downtown landmark, the Paramount Theater.

Now, if the McCain amendment passes, the city of Ashland would be left with a grant mandating that they build a parking garage that will yield fewer spaces at a greater cost. Mr. President, this makes no sense.

Mr. President, this supplemental appropriations bill also provides for a long overdue funding correction in Federal-aid highway funding. This bill will provide Kentucky with $29.8 million to correct the funding shortfall. I was able to include language that directs the State of Kentucky to provide $12.6 million of the $29.8 million allocated for completion of the Natcher Bridge. This will ensure the completion of Natcher Bridge.

Again, by striking the language, not one dime will be saved and the bridge will be left unfinished. Keep in mind every year this bridge is left unfinished the total cost of the project increases. So again, this amendment would waste scarce tax dollars and delay the completion of this important project.

Mr. President, I believe the supporters of the amendment have mischaracterized this amendment and are doing a disservice to taxpayers and the citizens of Kentucky. I strongly oppose this amendment.

Mr. STEVENS. Mr. President, I have to oppose the amendment of the Senator from Arizona.

With regard to the funds for the Paramount Theater, for instance, in Kentucky, these are funds that were already made available for a parking garage there in the same area, and those funds are being reprogrammed to another project that is involved in the same area which is a historic landmark.

We have another funding request here concerning the VA hospital. These

funds were appropriated in 1997 for this project, but unfortunately the authorizing language was left out of the Veterans Housing Act. What we are doing is going through the act again and reappropriating it with authorizing legislation. That is a technicality, really.

We do have the money, and there are highway funds allocated, in addition to those already allocated in Utah, that will be allocated for the planning and engineering design of projects for the Olympics. These are the Winter Olympics for 2002, a very historic thing to have Olympics in our country. Just as every country, we have to have special parking lots, special entrances, security involved in roads, streets, and highways in connection with the Winter Olympics. That is a noble use of funds for those projects. Of course, the highways and roads and parking lots are usable afterward. I do not argue about that. There is no question about the need for getting going now to allocate those funds for those highway projects that do meet the criteria of past allocations.

We have a whole series of other problems that the Senator mentioned. I only say that some of them may be small disasters, such as the salmon problem which the Senator has mentioned. Others are items that we put in the bill because of the timeliness of the construction that is required.

I will probably be making comments further tomorrow on other matters of the bill to try to explain some of these items. There are items here in several departments, and the Senator has pointed them out, that are not disaster related. That is why this is an emergency and supplemental appropriations bill. These amendments go to the supplemental portion, normal supplemental allocation of funds for items to be completed this year. These are moneys to be used in the remainder of fiscal year 1997.

I am sad to say I do oppose the amendment of the Senator. I understand what he is doing. For the Senator's benefit, I hope he understands what I am saying. Senator MCCAIN has become the chairman's large image on the wall, and I have to tell everyone that has an amendment that is presented to our committee in connection with supplementals or even annual bills, "You better be sure we have the justification to get these by the Senator from Arizona because he is our watchdog." We need watchdogs and we appreciate them, but I have to say I will be glad to tell the Senator sometime about the 1,000 amendments we did not approve. We had more than 1,000, I might add, suggested to our committee. These are the ones that survived.

I defend what we have done, and under the circumstances, it would be my intent to table when the Senator is finished with his remarks.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I think it is important to point out that the Senator from Alaska has been very cooperative and has been very helpful. I appreciate that. I also appreciate the various influences that the Senator is under. I appreciate his understanding. I look forward to working with him as we go through the process. He and I, I believe, along with the Senator from West Virginia, have a clear understanding of where they stand and where I stand, and that relationship is characterized by nothing but respect and, indeed, affection. I appreciate the Senator from Alaska and I do not intend to call for a recorded vote on the motion to table.

Mr. STEVENS. I do ask that the amendment be tabled, and I move to table this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment No. 107.

The motion to lay on the table the amendment (No. 107) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay it on the table.

The motion to lay on the table was agreed to.

U.S. COURTHOUSE IN MONTGOMERY, AL

Mr. SHELBY. Mr. President, I would like to thank the Senator from Rhode Island for his assistance with several issues affecting the U.S. courthouse to be constructed in Montgomery, AL. Last fall, $6 million was included in Public Law 104–208 to help offset cost escalations resulting from: An error made by GSA during its Time Out and Review exercise; inflation; required security upgrades; historic preservation; and, heating, ventilation, and air conditioning improvements.

Because this supplemental project funding cannot be obligated by GSA without authorization by the Committee on Environment and Public Works, I have worked closely with Senator CHAFEE and other members of the authorizing committee to secure their approval. Appropriately, Senator CHAFEE and others wanted to make sure that this additional funding would not cause the project in Montgomery to exceed the GSA benchmarking and project budgeting process. At my and Senator CHAFEE's request, GSA confirmed in a letter dated April 21, 1997, that this additional $6 million will not cause the Montgomery project to exceed its benchmark. That is, this additional funding is necessary for GSA to complete the very critical and basic features of a modern courthouse facility.

Mr. CHAFEE. The Senator from Alabama is correct. After numerous conversations with GSA officials, and after receiving the GSA letter my colleague referred to, I have confirmed that the $6 million included in last year's Omnibus Appropriations Act is necessary and appropriate for the courthouse project in Montgomery. Indeed, the additional $6 million will not cause this project to exceed its GSA benchmark cost. As such, I have no objection to GSA obligating these funds and encourage the agency to move expeditiously on this project.

Mr. President, let me make it clear that absent the extraordinary circumstances faced by this project, I would insist upon authorizing the additional money through the committee resolution process, in accordance with the 1959 Public Buildings Act. As the Senator from Alabama mentioned at the outset, this project has already incurred cost increases as the result of delayed construction starts. A GSA budgeting error on Montgomery has yielded inflationary cost increases of $2.6 million. In addition, the project recently suffered a bid bust which threatens to delay construction further unless additional funds are provided expeditiously. This project must proceed as soon as possible to prevent further wasteful expenses.

Mr. SHELBY. I appreciate the Senator from Rhode Island's assistance on this matter and am thankful for his recognition of the special circumstances. As the former chairman of GSA's appropriations subcommittee, I am fully aware and supportive of the need to abide by national project cost standards.

AGRICULTURAL CREDIT ISSUES

Mr. DASCHLE. Mr. President, many farmers and ranchers in South Dakota have contacted me over the past few months to express their concerns with the eligibility requirements and availability of Department of Agriculture disaster loans. I had hoped these could be addressed in the supplemental appropriation bill.

Mr. DORGAN. I share the concerns of my colleague from South Dakota. Our States have witnessed the most devastating series of winter storms and spring flooding in memory. Our producers need help in rebuilding their farming and ranching operations. However, I am afraid the credit needs of many farm and ranch families are not being met.

For example, some producers cannot access USDA's Emergency Disaster Loan Program, even though they have a qualifying disaster loss. Others, Native American tribes, do not have a loan program available to them to replace livestock lost during the disaster. I believe it is important that we give them an opportunity to rebuild their lives and livelihoods, by giving serious consideration to updating the programs.

These are the reasons I filed amendments cosponsored by Senators DASCHLE, CONRAD and JOHNSON.

Mr. LUGAR. Mr. President, I am sensitive to the concerns expressed by my

colleagues. At the same time, significant reforms were made to USDA lending programs by the 1996 FAIR Act. I want to maintain the integrity of these reforms, and therefore believe that any measures which would substantially alter the basic terms of the lending programs should be subject to review by the Committee on Agriculture, Nutrition and Forestry.

Mr. DASCHLE. I support the amendments offered by my colleague from North Dakota but understand the concerns of the distinguished Senator from Indiana. Would my colleague from Indiana agree to a review by the Committee on Agriculture, Nutrition, and Forestry, of these and other disaster related credit issues affecting farmers and ranchers?

Mr. LUGAR. Mr. President, I believe that is a constructive idea. The committee will review not only the issues raised by the Senator from South Dakota and our other colleagues, but potentially also other issues relating to rural credit, including the effectiveness of certain USDA loan guarantee programs, an issue brought to my attention recently by several community bankers.

Mr. DORGAN. While I would prefer to see passage of my amendments, I also understand the chairman's concern and will not offer them today. I would encourage the Senator from Indiana to move expeditiously. Rural Americans from our region need some help soon.

1997 DISASTER IN THE RED RIVER VALLEY

Mr. GRAMS. Mr. President, a good deal has been said about the terrible devastation in Minnesota in the Red River Valley and along the Minnesota River. When we visualize the disaster, we picture communities like Ada, Granite Falls, East Grand Forks, Montevideo, Breckenridge, Moorhead, and Warren submerged in river water. I have seen most of these communities first hand and have at once anguished over their loss and admired them for their courage. We tend to overlook some other folks in Minnesota who were equally devastated by the terrible floods that came so soon on the heels of a very long and blistering cold winter. We tend to overlook the same folks who, year-in and year-out, are charged with an enormous responsibility: feeding the world.

It is estimated that over 3 million acres of prime farmland were under water at the height of the flooding. These are the same acres that Minnesota farmers use to produce much of the world's supply of potatoes, wheat, sugar, barley, corn, and soybeans. In short, without any exaggeration, this disaster upset the bread basket of the world.

But, I am inexpressibly proud to report to my colleagues that it takes more than "hell and high water," as the Grand Forks Herald put it, to keep Minnesota's farmers down. As a matter of fact, despite the absolutely staggering statistics—3 million acres under water, the loss of 2,300 farm homes, 2,500 farm buildings, 3,400 pieces of farm equipment, countless fences, 10,000 head of cattle, hogs, and sheep, 130,000 poultry, 2.3 million pounds of milk, and 15 percent of Minnesota's stored crop—Minnesota farmers have not shrunk from their occupation, or indeed, their avocation. Minnesota farmers have not shrunk from their job of feeding the world. In fact, I want my colleagues here to know that within 1 week of this calamity, every farmer that could manage, was back in the field. Mr. President, when one reflects on all the adversity Minnesota farmers have experienced in recent years—highlighted by the drought of 1988, the floods of 1993, the harsh winter storms in 1996 and 1997, and now the flooding—it instills in me a solid respect for our Minnesota farmers who work through whatever Mother Nature throws at them—and sometimes even get the best of her.

But, just like everyone else, even the hardiest of people need a hand from time to time. And, this is such a time. That is why I am pleased that the disaster relief we now consider provides some $18 million in additional emergency loan assistance and $77 million in emergency conservation cost-share dollars. I am also pleased this legislation, which I trust will have speedy consideration and passage, provides $50 million for a livestock indemnity program to help livestock producers.

Mr. President, on behalf of Minnesota farmers and ranchers, I am grateful for the commitment Congress and the President have made to those who guarantee America has the most abundant, most affordable, and most wholesome food supply in the world.

Consistent with this commitment, I hope the administration, particularly the Department of Agriculture, will help our farmers through this difficult time. Specifically, in recent days, I have expressed to the Secretary of Agriculture my concern and the concern of many farmers and Farm Service Agency personnel in Minnesota over some very important matters. First, I am concerned the existing emergency loan assistance (ELA) Program may not assist all our disaster-stricken producers as the Federal Emergency Management Agency and the Small Business Administration assist homeowners and businesses. Second, under current Federal Crop Insurance Corporation regulation, I am concerned that farmers may not be able to plant in time to ensure their crops are fully insured until fully harvested. And, third, I am concerned about many of our farmers who lost program or non-program crops in storage since these crops were largely uninsured. In the interest of equity for Minnesota's disaster-stricken farmers, I hope the Secretary will use his existing authorities to work with me to prevent these inequitable results.

Mr. President, some time ago, Rudyard Kipling fondly wrote about the one who could:

> watch the things [he] gave [his] life to, broken, and stoop and build 'em up with worn-out tools . . . [or] make one heap of all [his] winnings, and risk it on one turn of pitch-and-toss, and lose, and start again at [his] beginnings, and never breathe a word about [his] loss.

I suspect Rudyard Kipling would have had a profound respect for Minnesota farmers.

Mr. MCCAIN. Mr. President, the supplemental appropriations bill should allow the Federal Aviation Administration [FAA] to spend additional funding on commercially available explosive detection systems for the Nation's airports, rather than for only one type of system as proposed by the House. The House bill provides an additional $40 million for the FAA to purchase this one system, while the Senate bill provides no additional funding. When the conference report returns to the Senate floor, however, we should make sure that any additional funding given to the FAA can be used to purchase whatever explosive detection equipment it believes will do the best job.

The development and deployment of various devices that can detect explosives are a key component of the overall security for commercial aviation. Unfortunately, the House version of the supplemental appropriations bill does not move us in this direction because it earmarks additional funding for only one type of explosive detection system. This earmarking does not provide for a multilevel approach to security as recommended by the White House Commission on Aviation Safety and Security. In its recent report, the Commission suggested that various explosive detection systems should be implemented at the Nation's airports because each one has its strengths and weaknesses. The Commission also urged FAA to deploy commercially available systems while continuing to develop, evaluate, and certify such equipment. Additionally, the General Accounting Office has criticized the FAA for ignoring a strategy more heavily focused on integrating several different procedures and technologies for detecting explosives. Explosive detection devices vary in their ability to detect the types, quantities, and shapes of explosives. For example, one device excels in its ability to detect certain explosive substances but not others. Other devices cannot detect explosives in certain shapes.

The FAA believes that the greatest threat to aviation is explosives placed in checked baggage. It was an explosive placed in a checked bag that brought down Pan Am 103 more than 8 years ago with the loss of 270 lives. In response to this tragedy, the Congress

approved the Aviation Security Improvement Act of 1990. Among other things, the legislation directed the FAA to certify explosive detection equipment. It also established a goal of having new explosive detection equipment in place by November of 1993. The TWA Flight 800 accident last July, however, highlighted the fact that no new explosive detection devices had been deployed in the United States since the Pan Am bombing. Congress responded, in part, in the Federal Aviation Reauthorization Act of 1996 by mandating that the FAA immediately deploy commercially available explosive detection equipment.

The threat of terrorism against the United States has increased and aviation is, and will remain, an attractive terrorist target. The terrorist threat faced by the United States overseas has been with us for some time, as illustrated by the bombing in Saudi Arabia of the United States barracks. However, other incidents, such as the bombings of the World Trade Center in New York and the Federal building in Oklahoma City have also made terrorism an issue at home. In 1994, the Federal Bureau of Investigation reported that the most important development concerning terrorism inside the United States was the emergence of radical terrorist groups with an infrastructure that can support terrorists' activities. That same year, the State Department reported an increase in attacks by radical fundamentalist groups, who operate more autonomously than state-sponsored, secular terrorist groups. Fundamentalist groups are more difficult to infiltrate. Consequently, it is difficult to predict and prevent their attacks.

Given the potential for a terrorist act against aviation, explosive detection systems should be deployed as quickly as possible. As the General Accounting Office reported in January 1994, terrorists' activities are continually evolving and present unique challenges to the FAA and law enforcement agencies. The bombing of Philippines Airlines Flight 434 in December 1994, which resulted in the death of one passenger and injuries to several others, illustrates the extent of terrorists' motivation and capabilities as well as the attractiveness of aviation as a target. According to information that was uncovered by accident in early January 1995, this bombing was a rehearsal for multiple attacks on specific United States flights in Asia.

Today, various explosive detection devices are commercially available for checked and carry-on baggage and could improve security. Some of these devices are already being used in foreign countries such as the United Kingdom and Israel. Other devices are under development and may soon be available. We must untie the FAA's hand and allow them to dedicate additional resources to the technologies they believe would be the most effective in detecting explosives. To see that this occurs as quickly as possible, any additional funding appropriated by the Congress should be available to purchase commercially available explosive detection devices. By taking such action we can move toward deploying the best systems for the Nation's airports.

Mrs. BOXER. Mr. President, I want to take this opportunity to thank Senator STEVENS, the chairman of the Appropriations Committee, and Senator HARRY REID, the ranking member for the Subcommittee on Energy and Water Development, for their help in obtaining the Senate's unanimous consent for an amendment I had requested to the disaster supplemental appropriations bill.

The Senate on Tuesday accepted the amendment offered by Senator STEVENS for Senator REID that would allow the U.S. Army Corps of Engineers to conduct emergency dredging and snagging and clearing of the San Joaquin River, CA, as well as the Truckee River, NV, channels. Funding for this operation would be obtained from available balances from the $137 million appropriated by the Senate for operations and maintenance for corps navigation projects.

I had previously requested $10 million for this operation for about 20 sites along the San Joaquin River, which filled with debris and sediment from the January 1997 floods in California. As a result of this flooding, the capacity of the San Joaquin was severely diminished and poses a threat of continued flooding before the flood season is over. The scope of this debris and fill was not evident until the river flows had receded. At that point, however, the emergency authority for corps' clearing operations had passed.

The hazard to navigation and to flooding posed by the debris fill is now quite obvious. What is less obvious is the obstruction that the deposited debris and sediment created to the migration and passage of anadramous and other fish, some of which are federally listed as endangered or threatened.

I appreciate Senators STEVENS' and REID's help on this amendment and urge their continued support for this provision when we conference with the House.

FUNDING FOR U.S. ARREARS TO THE UNITED NATIONS

Mr. GRAMS. Mr. President, I rise to discuss a provision in the fiscal year 1997 supplemental appropriations bill which has received little attention so far, but would fund $100 million to begin paying U.S. arrears to the United Nations.

As the chairman of the Subcommittee on International Operations, I believe U.N. reform should be one of Congress' top foreign policy priorities this year. I know that this view is shared by the Republican leadership and other influential Members in both the House and Senate.

There is general consensus among Republicans, and, perhaps, even some agreement among Democrats, that the only way to get real reforms enacted at the United Nations is by linking the payment of U.S. arrears, in legislation, to their achievement. The appropriation of $100 million in fiscal year 1997, which is even earlier than the administration had requested, for a down payment on U.S. arrears demonstrates congressional seriousness on this issue.

I want to thank the chairman of the Appropriations Committee, Senator STEVENS, and Senator GREGG, chairman of the Appropriations Subcommittee on Commerce, Justice, State and Judiciary, for working so closely with the Foreign Relations Committee on this provision.

In the past, there has not always been such a cooperative spirit between the authorizing and appropriating committees on funding for foreign affairs and, therefore, I very much appreciate the efforts that Senators STEVENS and GREGG have made to consult with those of us on the Foreign Relations Committee.

Indeed, I am supporting this fiscal year 1997 appropriation to pay U.S. arrears because the bill specifically states that such funding must be subsequently authorized. The language reads that "none of the funds appropriated or otherwise made available by this Act for payment of U.S. arrearages to the United Nations may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of a subsequent act."

This language explicitly reinforces the role of the Foreign Relations Committee in authorizing or approving any funding for U.S. arrears. Therefore, let me make absolutely clear what I believe must happen before this $100 million appropriation for fiscal year 1997 can be expended.

First, as I stated earlier, any legislation authorizing payment of U.S. arrears must condition such payment on the achievement of specific, meaningful U.N. reforms.

Second, legislation authorizing any payment of U.S. arrears must be a comprehensive, multiyear plan. I would not support a 1-year authorization bill, which would simply allow the $100 million appropriated in fiscal year 1997 to be expended, but would fail to outline a longer-term vision for how this issue should be addressed.

U.S. arrears provide crucial and unique leverage that can help encourage the United Nations and its member states to finally enact budget, personnel, and structural changes that will have a lasting, positive impact on how the United Nations functions. We should not squander or dilute this leverage by failing to enact comprehensive legislation that lays out exactly

what the United States expects from the United Nations in exchange for almost $1 billion.

Republicans have developed and proposed a 5-year plan to repay all legitimate arrears to the United Nations as long as specified reforms are achieved. This 5-year plan is fiscally responsible because it gives Congress a reasonable opportunity to find funding for U.S. arrears within the international affairs budget, known as the 150 account. It is sensible because it gives the United Nations a realistic timetable for enacting some of the more difficult reforms. And it is accountable to the American taxpayers by ensuring that the dollars the United States sends to the United Nations will go toward a more efficient organization.

Just last year, President Clinton proposed a 5-year repayment plan for U.S. arrears. But this year, the administration has declined to support our responsible approach and, instead, insisted that it wants all arrears paid in full by the end of fiscal year 1999.

As part of this request, the administration asked that Congress provide $100 million for arrears in fiscal year 1998 to give it diplomatic leverage in negotiating U.N. reforms. With the provision in S. 672, Congress has indicated that it is willing to begin paying back arrears even sooner, provided that an authorization bill is enacted and provided that the United Nations meets the reform conditions stipulated in that bill for the release of arrears in fiscal year 1997.

Mr. President, in the next few weeks, the Foreign Relations Committee will be moving toward its markup of the fiscal year 1998–99 State Department authorization bill. Included in that bill will be our 5-year plan for paying U.S. arrears in exchange for U.N. reforms. If the administration wishes to have funding available to pay arrears in fiscal year 1997 or in future years, it would do well to give this legislation more serious consideration and embrace its commonsense provisions to advance meaningful reform at the United Nations.

Mr. STEVENS. I cannot announce there will be no more votes, but it is not our intention to call upon amendments that would require votes tonight. We do expect to start very early in the morning and have a vote at approximately 10 o'clock in the morning on one amendment and then a period of debate on Senator BYRD's amendment to strike the continuing resolution proposal in the supplemental emergency bill. We will have a vote on that. It is our intention to finish this bill tomorrow evening.

I might say to Senators who have amendments, I urge them to come and present their amendments and try to work out, to the extent we can, time agreements on obtaining time tomorrow. It will be very much in short supply, Mr. President. We are going to move to go to third reading at or around 6 o'clock. I say that again: We are going to move to go to third reading at or around 6 o'clock if that is parliamentarily possible at that time. I think it will be.

AMENDMENT NO. 169

(Purpose: To increase the number of units available for FHA insurance under the HUD/State Housing Finance Agency Risk-Sharing program)

Mr. STEVENS. Mr. President, I send amendment No. 169 to the desk.

The PRESIDING OFFICER. There is a pending amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. STEVENS. For the purposes of the remaining amendments, I ask the Reid amendment not come before the Senate before tomorrow.

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

The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BOND, Mr. SARBANES, Mr. D'AMATO, and Ms. MIKULSKI, proposes an amendment numbered 169.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

In Title III, Chapter 10, add the following new section:

SEC. . The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 is amended by striking out "on not more than 12,000 units during fiscal year 1996" and inserting in lieu thereof: "on not more than 12,000 units during fiscal year 1996 and not more than an additional 7,500 units during fiscal year 1997.".

Mr. STEVENS. This is to increase the number of units available for FHA under the HUD/State Housing Finance Agency Risk-Sharing Program. It is a matter that deals with adding units for 1997.

It is cosponsored by, as I understand it, by Senators SARBANES, D'AMATO and MIKULSKI.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. STEVENS. Mr. President, I ask the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 169) was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 232, 233, AND 234, EN BLOC

Mr. STEVENS. Mr. President, I ask unanimous consent that three amendments on behalf of Senator CONRAD be considered and agreed to en bloc. I am going to send those amendments to the desk in a minute. These amendments have been cleared by the chairman and ranking member of the subcommittee. They provide additional emergency disaster funding for farm operating loans and flood plain easements and offset these additional amounts.

I send these three amendments to the desk and ask they be considered en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. CONRAD, proposes amendments Nos. 232, 233 and 234, en bloc.

Mr. STEVENS. I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments (Nos. 232, 233, and 234), en bloc, are as follows:

AMENDMENT NO. 232

(Purpose: To make an additional $10,000,000 available for the cost of subsidized guaranteed farm operating loans under Title II, Chapter 1)

On page 9, line 21, strike "emergency insured" and insert in lieu thereof "direct and guaranteed".

On page 9, line 25, strike "$18,000,000, to remain available until expended" and insert in lieu thereof "$28,000,000, to remain available until expended, of which $18,000,000 shall be available for emergency insured loans and $10,000,000 shall be available for subsidized guaranteed operating loans".

On page 10, line 3, strike "$18,000,000" and insert in lieu thereof "$28,000,000".

AMENDMENT NO. 233

(Purpose: To reduce funding for The Emergency Food Assistance Program commodity purchases to offset emergency disaster funding for subsidized guaranteed farm operating loans and additional funding for flood plain easements)

On page 74, between lines 4 and 5, insert:

FOOD AND CONSUMER SERVICE

THE EMERGENCY FOOD ASSISTANCE PROGRAM

Notwithstanding section 27(a) of the Food Stamp Act, the amount specified for allocation under such section for fiscal year 1997 shall be $80,000,000.

AMENDMENT NO. 234

On page 13, line 1, strike "$161,000,000" and insert "$171,000,000".

On page 13, line 15, strike "$10,000,000" and insert "$20,000,000".

Mr. STEVENS. They are, as I said, necessary to assure that funding during a disaster period now on emergency basis are available for farm operating loans and flood plain easements and the offsets for those amounts that are necessary.

I ask the amendments be agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (No. 232, 233, and 234), en bloc, were agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. BYRD. I move to lay it on the table.

The motion to lay on the table was agreed to.

INTERIOR PORTION

Mr. DASCHLE. I would like to engage my colleague Senator GORTON, the chairman of the Subcommittee on Interior and Related Agencies, in a colloquy on the Interior portion of the bill.

Mr. GORTON. I am happy to do so.

Mr. DASCHLE. As the Senator knows, the Dakotas and many upper Midwestern States were battered by a series of storms this winter and spring. Many of the States affected by weather-related emergencies are still battling and will not have a complete or accurate assessment of the damage until later this spring. Indian tribes, many of which live in remote areas, are among those whose communities suffer most in this kind of disaster.

Mr. GORTON. I fully appreciate the sentiments of the Senator from South Dakota. The President's request for emergency funding for the Bureau of Indian Affairs is $10,800,000. The Appropriation Committee's recommendation, based on updated information about the costs associated with these storms, is $20,566,000. Of the additional amount included in the committee-reported bill, $1,059,000 is directly attributable to the efforts of Senator DASCHLE.

Mr. DASCHLE. I want to thank the committee for adding $1,059,000 to the supplemental spending bill for the Bureau of Indian Affairs. I am particularly grateful to the efforts of Senators GORTON, STEVENS and BYRD in working to ensure sufficient funding in this bill to mitigate the impacts of this year's weather disasters on so many tribes, including those in South Dakota. It is my hope that of the funds appropriated in the bill for the Bureau of Indian Affairs, the Bureau will consider the additional needs of the Cheyenne River Sioux Tribe for welfare assistance costs, the Mni Sose Intertribal Water Rights Coalition to support their work in helping the tribes of my region obtain disaster assistance, the Crow Creek Sioux Tribe for snow removal, and the Flandreau Santee Sioux Tribe for snow removal.

Mr. GORTON. I agree that the Bureau should consider the additional needs you have identified in distributing the funds provided.

Mr. DASCHLE. Since the markup, I have received a request for an additional $1,200,000 for emergency assistance for the Crow Creek Sioux Tribe in South Dakota. The Crow Creek community of Fort Thompson suffered damages that require road repairs, monitoring and cleanup of sewage, repairs to the tribal administration building, and repair to the irrigation pump on the tribal farm. Is it the chairman's belief that these repairs can be accomplished within the funding provided?

Mr. GORTON. Within the $20,566,000 provided for the Bureau of Indian Affairs, an estimated $4,736,000 has been identified for emergency needs in South Dakota, including emergency assistance for the Crow Creek Sioux. In distributing these amounts, I agree that the Bureau should take into consideration additional needs, including those of the Crow Creek Sioux, to the extent that Bureau policy regarding historical priorities for funding Indian roads, tribal administration buildings and irrigation projects is met. In addition, the Bureau must consider the availability of funding through other Federal agencies, including the Federal Emergency Management Agency and the Federal Highway Administration's emergency road program [ERFO].

Mr. BYRD. Mr. President, I concur with the Subcommittee Chairman that the Bureau should give consideration to the additional requirements identified by the Crow Creek Sioux tribe, as well as other tribes. The funds provided are to address the most critical health and safety and emergency response needs associated with the disasters. If the additional emergency appropriations are not sufficient to address all requests from all tribes, the Bureau of Indian Affairs will have to prioritize the requests, but they are encouraged to consider the particular needs in South Dakota.

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

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

AMENDMENT NO. 59

(Purpose: To strike title VII)

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order for me to call up amendment No. 59.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 59.

On page 81, beginning with line 1, strike all through page 85, line 9.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the very last sections of this bill, title VII, beginning on page 81, line 1, through page 85, line 9, contains language which its proponents call the Government Shutdown Prevention Act. I believe it could be more aptly dubbed the Adequate Oversight Prevention Act. During a committee markup of this emergency disaster assistance bill, after considerable debate, my motion to strike this proposal was defeated by a party line vote of 13 yeas to 15 nays.

The language of title VII is the same language as is contained in S. 47, which was introduced some weeks ago by Senators MCCAIN, HUTCHISON, STEVENS, and others. The provisions provide that if any of the 13 regular appropriations bills for fiscal year 1998 do not become law prior to the beginning of the fiscal year on October 1, there will be an automatic appropriation for each such program, project or activity contained in that bill at the arbitrary rate of 98 percent of the funding that was provided for the program, project or activity in the corresponding regular appropriations act for fiscal year 1997. This level of funding would continue for each appropriation bill for the entirety of fiscal year 1998, unless another continuing resolution or a separate appropriation bill is enacted into law to replace it.

If these provisions were in effect for the entire fiscal year for all 13 regular appropriations bills, the effect could be cuts totaling $35 billion, or 7 percent below President Clinton's discretionary budget request. This level of cuts would cause severe devastation to worthy national efforts in law enforcement, education, transportation and transportation safety, Health and Human Services, and a host of other programs throughout the Federal Government.

Mr. President, I am especially concerned about the impact that this so-called Government Shutdown Prevention Act would have on our law enforcement agencies and the Federal courts. For these agencies, this proposal would, in fact, be a shutdown bill. It would itself be a severe setback in the war on crime and illegal narcotics. We finally have seen positive results from our efforts to bolster the Justice and Treasury Departments and our anticrime programs. The Bureau of Justice Statistics' most recent crime reports show that we are finally turning the corner on violent crime in America. They report a decline of 12.8 percent in violent crime—rape, robbery and assault. There is far too much crime in America. But we are starting to win the war, we hope. We should be enhancing our efforts, as the President's budget proposes. Instead, this shutdown proposal would hurt our law enforcement agencies, our men and women in uniform, as much as any terrorist or Mexican drug cartel or gang or organized crime figure could hope to. It would cause an about-face and undercut Federal law enforcement right in the midst of battle.

Let us look briefly at what this shutdown proposal would mean to specific

Federal law enforcement agencies. These are conservative estimates that were supplied by the agencies themselves.

This proposal would cut the Federal Bureau of Investigation by $261 million below the President's budget request. It would eliminate at least 2,281 positions, including 965 FBI agents and 1,316 support staff. Reductions would include 199 agents that investigate domestic terrorism and 175 agents that develop capabilities to counter the threat from chemical, biological, and nuclear materials. We have been adding positions to the FBI to deal with terrorist acts like the bombings in Oklahoma City and at the Atlanta Olympics. This would reverse the gains that we have made in mobilizing a Federal response to domestic and international terrorism.

Funding would not be available to complete the new FBI laboratory at Quantico, VA. We are all concerned with reports of problems in the operations of the current laboratory at headquarters. The FBI must have state-of-the-art facilities and continue to be the world's premier law enforcement forensic laboratory. We need to complete this $130 million laboratory, which is so important to Federal, State and local law enforcement.

Funding would not be available to continue the telephone carrier compliance effort called for under the Communications Assistance For Law Enforcement Act. All Senators know just how rapidly the telecommunications industry is changing. Telephones are now portable, and they are adopting digital technologies. Without funding for retrofitting telephone switches, we will be unable to conduct court-ordered wiretaps of drug dealers and organized crime and national security threats. This shutdown proposal would cut the Drug Enforcement Administration by $106 million. It would require the DEA to absorb $36 million in must-pay bills for cost-of-living adjustments, inflation and contract costs. It would force DEA to stop hiring agents, and we would not be able to provide for the 168 new special agents that are proposed in the President's budget.

DEA would have to cut back, rather than increase, its efforts to combat methamphetamine, or "meth," as it is known, and drug trafficking in cocaine and heroin by the Colombian and Mexican cartels. DEA estimates that this bill would require a reduction in force of up to 263 special agents. It would stop dead in the water DEA's efforts to expand mobile enforcement teams that sweep through rural communities to weed out drug dealers. And it would severely set back our efforts to combat illegal narcotics on the southwest border, in Texas, California, New Mexico and Arizona.

This shutdown proposal would strike a blow against our efforts to make American borders secure against illegal immigration and drug smuggling. It would devastate the Customs Service and the Department of the Treasury and the Immigration and Naturalization Service in the Department of Justice. The proposal would cut $64 million and 201 agents from the U.S. Customs Service. It would result in reductions in antismuggling and drug-interdiction efforts, efforts that are important in keeping American borders safe and secure.

But reductions in staffing are only one component of keeping the borders secure. The reduction would also delay acquisition of high-energy detection systems and eliminate funding for border passenger processing systems. These systems identify attempts to smuggle illegal chemicals, refrigerants, and illegal aliens across the border. The reduction would also delay funding for the automated targeting system, which increases Customs' capability to conduct intensive border inspection.

This proposal would destroy the progress that we have made in building up the capability of the Border Patrol and the Immigration and Naturalization Service. These efforts really started with hearings on illegal immigration that I held in 1994 when I served as chairman of the Appropriations Committee. The INS advises that this bill would require the reduction of $385 million and would severely impact major enforcement programs such as detention and deportation, investigations, work site enforcement, and the apprehension of illegal aliens. This bill would stop dead in their tracks our efforts to build up the Border Patrol by 1,000 agents per year. We just reaffirmed this commitment in last year's immigration bill. The Border Patrol and INS advise that if they have to operate at 2 percent below current levels during fiscal year 1998, they will have to eliminate at least 1,671 personnel that were added just this year.

One of the real success stories in Federal law enforcement has been our Bureau of Prisons. We are putting away more criminals under lock and key and keeping them away from the public for longer periods. I fear that this shutdown bill would reverse this progress. The prison system advises us that this bill would require a reduction of $119 million from the President's budget request. They would be unable to activate a new medium security prison in Beaumont, TX. There would be no funds for the annualization costs of six new prisons scheduled for activation this year, resulting in the loss of more than 7,300 beds. We have been funding new construction. Now we need to have the money to staff and operate these institutions. Overcrowding would increase to 23 percent for the overall Federal prison system, rather than the planned goal of 12 percent for fiscal year 1998. Of course, we have learned that overcrowding is unsafe and often leads to institutional disturbances. Mr. President, we should not and we must not risk the safety of our dedicated correctional officers who serve in the Federal prisons throughout this country.

This shutdown proposal would require the reduction of $110 million and at least 280 personnel at the U.S. attorney offices across the country. This would impact our ability to prosecute violent criminals and criminal aliens. In case after case, from the current Oklahoma City bombing case in Denver to the World Trade Center bombing case, we turn to dedicated assistant U.S. attorneys to represent the people of the United States. All our investigations by the FBI, DEA and other agencies will come to naught; our investigations of the Mafia, drug traffickers, terrorists and violent criminals will be meaningless if we cannot rely on our prosecutors to fight in court and gain a conviction for these criminals. This provision would reduce prosecutors, increase caseloads, and delay prosecution.

This is a bad idea. This proposal would force the U.S. marshals to eliminate 61 positions hired in fiscal year 1997. The marshals are responsible for custody of presentenced Federal prisoners, finding fugitives, administering the court security program, and protection of Federal judges. They have advised us that with this reduction of $28 million, they would be unable to complete security improvements and projects at prisoner transportation holding areas. Since Oklahoma City, we have tried to build up court security with equipment and security guards, and we must not let down our guard.

I would be remiss if I did not discuss this proposal's impact on the Federal judiciary, our third branch of the Government. In short, the impact would be devastating. It would require a reduction of $425 million from the budget request for the courts. It would require the reduction of over 3,500 positions. The judiciary estimates that appellate and district courts would be reduced by almost 1,200 positions. There would be reduced staff in courtrooms for filings, motions, pleadings and scheduling of cases. The bankruptcy court's clerk's offices would be forced to eliminate approximately 1,000 clerks. This reduction would increase the backlog in issuing discharges, closing cases and processing claims. Probation and pretrial services would be reduced by approximately 1,330 positions. The supervision of offenders and defendants would be cut in half. Panel attorney payments would have to be suspended as early as July 1998. Mr. President, what we are talking about is failing to provide for basic constitutional rights like the right to be represented by counsel.

For education, the effects of full-year funding for 1998 at 98 percent of 1997 levels would also do great harm. College aid would be cut by $1.8 billion, 400,000 students would lose Pell grants, 52,000 children would be cut from Head Start, and aid to 2,000 local school districts would be cut.

For Health and Human Services, dramatic cuts would occur to the NIH, Ryan White and the Indian Health Service and, moreover, WIC would serve several hundred thousand fewer women, infants and children in 1998, and the Veterans Administration would have to deny care to 200,000 veterans.

In the area of transportation safety, the FAA would be unable to hire the additional 500 air traffic controllers, 325 flight inspection and certification personnel and 173 security staff included in the 1998 budget.

Why anyone would think that enacting such a measure is a good idea is beyond me. Should we fail to enact one of the 13 bills, this so-called automatic measure would go into effect for up to 1 year, making mindless cuts in many beneficial programs like the ones I have mentioned, and yet all the while continuing funding in other programs that may have been slated for elimination because they are no longer needed.

This is mindless legislating. It is very much like saying because we have missed the deadline for the budget resolution, which we have by more than 2 weeks this year already, we should enact legislation which says we will just use last year's budget resolution minus 2 percent across the board and get on with our business.

Furthermore, the same delayed budget resolution has made it highly likely the Senate will be unable to pass all of the appropriations bills in a timely fashion and, therefore, highly likely that this automatic provision will be used. This is not to mention the obvious possible misuse of the automatic provision which could be employed by the majority if it were intent on cutting certain programs and could not get the minority or the President to go along. All that has to occur is for an appropriations bill to conveniently bog down beyond October 1, and the cuts I have previously mentioned could very magically occur without further consideration by the Appropriations Committee and without any further vote by the Senate.

I appreciate the ingenuity and the political acuity demonstrated by the authors of this device, but I would like to remind us all that making political trump cards on an emergency disaster bill may not be appreciated by the American people, especially the disaster victims who are waiting for our help.

It should be obvious to everyone that this is some kind of political ploy, else the attempt would not be made to attach it to a bill the President naturally would find very difficult to veto. In fact, if one can believe what one reads in the press, the reasons for this proposal are set out rather starkly in an article which appeared in the April 18, 1997 issue of a publication called Inside the New Congress. That publication discusses this so-called automatic CR provision under a heading entitled "Automatic PR."

Mr. President, I will continue my statement in support of my amendment on tomorrow. I yield the floor.

Mr. McCAIN addressed the Chair.

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

Mr. McCAIN. Mr. President, I understand the concern of the Senator from West Virginia. I hope that he will then understand why the Senator from Texas, Senator HUTCHISON, and I have an amendment to raise the spending to a full 100 percent of the previous year rather than 98 percent, rather than force the impact that the Senator from West Virginia, as always, so eloquently described. So, therefore, I hope that the Senator from West Virginia will have no objection to a unanimous-consent request to lay aside his amendment so I can bring up my amendment, No. 112, which calls for 100 percent funding at the previous year's level and, that way, I hope that most of the concerns that the Senator from West Virginia has will be allayed and he then, of course, hopes that many of his concerns he voiced will be addressed.

So, Mr. President, I ask unanimous consent to lay aside the pending amendment and call up amendment No. 112.

Mr. BYRD. Mr. President, I object for the time being. It might not be that on tomorrow morning I will have objection. I am not sure. I would just like——

Mr. McCAIN. I say to the Senator from West Virginia, if he will yield.

Mr. BYRD. Yes.

Mr. McCAIN. I, of course, will have to make a motion to table the amendment of the Senator from West Virginia and ask for an immediate vote, because I believe that it is only fair to raise the spending level to 100 percent. I think that it is important for us to do that. I think the Senator from West Virginia, or his staff, knew that Senator HUTCHISON and I had planned on doing that when the original schedule was we were going to bring up his amendment and ours tomorrow morning.

So I hope that the Senator from West Virginia will agree to allow our amendment for 100 percent funding to be considered and his amendment be laid aside.

Mr. BYRD. Mr. President, as I say, I might not object tomorrow morning, but as of now, I would like to object and give the matter a little thought.

The PRESIDING OFFICER. Objection is heard. The Senator from Arizona has the floor.

Mr. McCAIN. Mr. President, I intend to talk for quite a while on the issue and hope that perhaps sometime this evening the Senator from West Virginia will find it agreeable to raise the spending level, which is a very important part of this legislation, to 100 percent.

Frankly, I do not understand the rationale of why we cannot go ahead and just have that done and move forward with the debate on the issue itself. The issue itself is whether we are going to subject the American people, citizens, both Federal workers and non-Federal workers, to the hardship and the incredible discomfort and sometimes the wrecking of entire lives as a result of a shutdown of the Government.

In 1995, there were thousands of people in my State, non-Federal workers—non-Federal workers—who, unfortunately, were dislocated because of the shutdown of the Government and, therefore, not allowed to ever recover as the Federal workers were.

Some people have questioned what we are trying to do here and why. Perhaps their memories are not as good as mine as to the impact on my State and the Nation. I received this information from the Office of Management and Budget.

The National Park Service facilities were closed. On an average day, 383,000 people visit National Park Service facilities. Potential per day losses for businesses in communities adjacent to national parks could reach $14 million due to reduced recreational tourism.

As a result of the closing of Yosemite National Park, Mariposa County declared a state of emergency and asked Governor Wilson of California to declare the county an economic disaster area and, therefore, eligible for State aid.

Access to and use of national forests was restricted. The Forest Service-operated campgrounds, monuments and visitor centers were closed in the 155 national forests. No timber sales activities, including preparation, advertising and award of sales, occurred. Harvesting continued for sales awarded prior to the shutdown.

FHA mortgages and housing vouchers were halted. On an average day, the Federal Housing Administration processes 2,500 home purchase loans and refinancing totaling $230 million worth of mortgage loans for moderate- and low-income working families nationwide.

Last January of 1996, HUD was unable to renew 49,000 vouchers and other section 8 rental subsidies for low- and moderate-income households, which could have led to the eviction of those families.

Applications for passports were not processed. Foreign visitors were unable to obtain visas. On an average day, the

State Department receives 23,000 applications for passports. On an average day, the State Department issues 20,000 visas to visitors, who spend an average of $3,000 on their trips, for a total of $60 million. Foreign students studying in the United States and home for the holidays were unable to obtain visas to return to the United States for their classes.

Veterans' benefits were not delivered. When the continuing resolution provided funding for certain benefits and payments, it expired and consequently contractors providing services and supplies to hospitals were not paid and benefits for January were not paid in February.

In addition, approximately 170,000 veterans did not receive their December Montgomery GI bill education benefits and did not receive benefits in January. Funding had lapsed for processing veterans' claims, for rehabilitation counseling, and veterans were unable to obtain VA guaranteed home loans.

Programs for the elderly were at risk. Some 600,000 elderly Americans faced the loss of Meals on Wheels, transportation, and personal care provided by the Health and Human Services Administration on Aging because the continuing resolution was not passed.

Contractors that handled Medicare claims were not paid. Approximately 24,000 contracting employees were involved in paying Medicare claims which averages about $3.5 billion per week, and most had to self-finance payrolls and other expenses or stop their activities. Federal funds to States for Medicaid were limited and will be limited in the case of another shutdown. In December 22 States received only 40 percent of the estimated quarterly payment for Medicaid. Without further action, the Federal match for Medicaid and its 36 million beneficiaries, including 18 million children, would have run out in late January.

Mr. President, I intend to talk more about the impact of the shutdown last time and the potential impact this time of a shutdown.

Let me just say that in some quarters, the Congress of the United States is not held in the highest esteem. When we shut down the Government because of our failure to agree with the President of the United States, that esteem plummets even further. What we did to the American people, average citizens who had no control over the situation, in December of 1995, is unconscionable and should not and cannot be repeated.

The whole purpose of what Senator HUTCHISON and I are trying to do, with the able leadership and assistance of the Senator from Alaska, is to make sure it does not happen again. We cannot let this kind of thing happen again. Too many innocent lives are injured and harmed permanently.

I understand the very eloquent statement of the Senator from West Virginia about what a shutdown would do at 98 percent. That is why the Senator from Texas and I are willing to raise it to 100 percent of the previous year's funding. Every program will be funded at the previous year's funding level until such time as there is agreement.

Mr. President, there are many other arguments that have been made against this shutdown-of-the-Government provision, one of them being perhaps there would be no incentive for the executive branch and legislative branch to agree on an appropriations bill.

We all know that there are many, many issues addressed in appropriations bills, far more than I would like, many of which I have complained about from time to time. There are policy changes, if I may be so crass, a great deal of earmarked spending which I have objected to from time to time.

It is still clearly in the interest for there to be an agreement. And it is still clearly in our interest to work together with the President of the United States. But, Mr. President, the option of such irresponsible behavior on the part of both branches that we would shut down the Government again is not thinkable and inexcusable, and I will not be a party—I will not be a party—to a situation again where the citizens of my State, who I am responsible for, when I have that responsibility will suffer as they did.

I note that the Senator from Wyoming is in the chair as the Presiding Officer. He knows the devastation that was wreaked in the national park—I believe Grand Teton in Jackson Hole—when the national park was shut down. We cannot have that repetition, and will not. And I would hope that the administration would continue to negotiate with us so we can avoid this and at the same time come to an agreement where we can prevent a future shutdown of the Government.

I would hope that the Senator from West Virginia would change his mind and agree to setting aside his amendment so that we may take up the 100 percent funding. And I intend to make that motion in a very short time again.

Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

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

Mrs. HUTCHISON. Mr. President, I want to thank my colleague from Arizona for his leadership in this area, because actually the Senator from Arizona and I have talked about this ever since the Government shutdown and then last year when we did not have a shutdown, but it really was not the normal course of negotiations when you get toward that September 30 deadline.

We have a freestanding bill that will in fact take care of the needs of Government after September 30, if we do not have an appropriations agreement. But then when we started looking at the fact that this is the supplemental appropriations bill, the first bill that has really hit the floor from the Appropriations Committee—it is May—if we waited much later than this I think perhaps agencies could say, "Well, but we can't plan."

I think it is important that the Federal agencies know exactly what is going to happen. I think it is important that we lay the groundwork in the first bill that we have on the floor in May before the September 30 deadline of how the process of appropriations is really going to work.

So that is why Senator MCCAIN and I introduced this, which we actually thought and hoped would have bipartisan support. We thought that if we did something that would say this is the way we are going to do it, if we put it on the table, that everybody would agree, because clearly no one wants to shut down Government. The President certainly does not. I am sure the distinguished minority leader from North Dakota does not. I am sure that Senator BYRD from West Virginia would not want to shut down the Government, and neither do any of us.

So what we are trying to do is say, how can we accomplish this in an orderly way? Senator MCCAIN and I and Senator LOTT and Senator STEVENS believe that this is the time to do it, so that we are not talking in the heat of a negotiation that is not going well on September the 29th of this year. What we are saying is we are going to run Government responsibly.

We had 98 percent of the 1997 expenditure level. Since that original amendment was filed, there has been a budget agreement. There has been a budget agreement between the President and Congress that has yet to pass Congress but nevertheless it is laying some parameters of higher spending levels going into 1998. But what we do not have is exactly what the policy is going to be in that 1998 level of expenditure. So there still is going to be negotiation about where the appropriations go within an agency's budget and what the policies might be.

So it is very important that we continue to work on making sure that we do not have a Government shutdown because there may be legitimate disagreements that cannot be solved by September 30. Of course, we hope they will be solved, but we all have seen that many times this has not happened because we have a President who is a Democrat and we have a Congress that is Republican, and sometimes our priorities are different. And we need the ability to negotiate in good faith without the hammer of a shutdown of Government over our heads.

So since we had the budget agreement that came into play that does have higher spending levels for 1998, Senator MCCAIN and I are willing to go from 98 percent to 100 percent, because letting the agencies continue to spend at the same levels that they are spending now seems to be reasonable since we now know that the levels will be higher.

There was a time last year when the President submitted his budget that the spending levels were not higher. Congress, in its original budget resolution, did not have the same 1998 level of expenditures. They are higher. So now that we know that, I think the 100 percent of present spending is certainly reasonable.

You know, I go back to what I said in the first place. If you cannot continue to run Government at a 2 percent discount or 100 percent of what you had last year, then you probably should not be managing a Federal agency because everybody has had to cut their budgets from time to time. They have had to cut them a lot more than 2 percent in small businesses around our country, in families that are trying to make ends meet because they have two kids in college at the same time. People have to stretch. And they do not quite understand why their hard-earned tax dollars are out there and we cannot cut back 2 percent on Government expenditures that are actually their expenditures because they are paying for this Government.

But 100 percent, since we are going to be going to higher levels, is fine and I can go along with that. I am certainly willing to try to make sure that we do not disrupt Government, but I think we need to take the step. I think we need to go forward and say, here is how we are going to run the appropriations process. I think every American can understand that if we do not have the ability to negotiate, without the threat of shutting down Government, that we are not going to be able to stand on our principles. Perhaps the President does not feel that he can stand on his principles. And we would like to be able to do that and come to terms in the normal course of business.

So that is why we are trying to plan ahead. That is why we are trying to make sure that the Government is not shut down, that Federal employees who would like to come to work, but cannot because it is a law that they cannot, are not in any way put to the test of wondering if they are going to be able to make ends meet because their salary will not be there. I cannot imagine, in my wildest dreams, that Congress would not pay the salaries of people who would like to come to work but cannot because of some artificial deadline that says Government stops if we do not have an appropriations bill.

So we are trying to keep that from happening so that Federal employees will not be forced to take leave, so that veterans will not worry whether their benefits are going to be there, so that people who are traveling back from college to home will not be unable to do that because perhaps they do not have their passport, so that people will not be inconvenienced with their long-awaited family vacation to the Grand Canyon or the Washington Monument. I think it is important that we take this process step.

There is one other point I think is very important to make. And Senator STEVENS has made it many times on the floor, but I think it bears repeating, because there is somehow the implication that the flood victims in North Dakota, with whom all of us have great sympathy, might not get the payments they need to start rebuilding.

In fact, Mr. President, they are getting the money now. There is no holdup in the emergency money that the flood victims are getting for rebuilding their homes or their office buildings. In fact, they are getting that money now. What we are talking about is a supplemental appropriations that would refill the coffers of the Federal Emergency Management Agency so that it will be ready for the next emergency. And we are trying to make sure that we cover all the expenditures that we are having to make right now.

But does anyone, for 1 minute, think that the loan processors and the people who are processing the claims of the flood victims in North Dakota are sitting there waiting for an appropriations bill to come through? Does anyone really believe that that is not going forward right now? I hope not, because nothing could be further from the truth.

In fact, the Federal Emergency Management Agency is on the job. They are on the spot. They are beginning to rebuild in North Dakota. And the money is there for them, as it should be. But what we are talking about is making sure that the money that is being spent now is replenished. So we have time to do this in the right way.

I think many people are concerned that there are other parts of this bill besides the emergency appropriations supplemental for North Dakota flood victims and for the people who are serving in Bosnia that—in fact, I would just make the same point for those in Bosnia who are serving there. They are not not getting what they would have. It is not as if this billion dollars that we are appropriating is going to do something that they do not now have. We are giving our young men and women who are protecting our country—if they are deployed to Bosnia on that mission, they are getting everything that they need to do that job.

But what we are talking about in this supplemental appropriations is replenishing the money that has been taken out of the Department of Defense for training, for equipment, for spare parts, for quality of life issues, such as housing and pay raises for our military.

We are putting the money back in that has been spent from the Department of Defense. And the Department of Defense does indeed need that money. And we are going to make sure that it goes in so that we do not interrupt the training and the equipment purchases and the spare parts purchases and the airplane purchases that are needed for our Defense Department.

So we are replenishing the coffers, but no one that is on a mission in Bosnia or a flood victim in North Dakota is not getting the services that have been authorized in previous legislation, previous bills for the Federal Emergency Management Agency.

So I want to make sure that everyone understands the money is going out. But there are some concerns among many of our colleagues on both sides of the aisle about some of the other parts of the bill. There are some clearly nonemergency, nonsupplemental needs that are being met in this bill. And I think some people are questioning whether maybe that should be put off to an appropriations process that is not in any way supplemental but is just the normal course of business.

So I think certainly debate is warranted. We do not want to in any way rush something through, because the people that need this money are getting the money that they need. I hope that we will be able to move forward on this.

I hope that at some point all of us will be able to vote on a continuing resolution that will assure that our Government goes along in an orderly way, that we also are able to negotiate in an orderly way on September 30 of this year if we do still have differences. We need to provide for those differences in an orderly way. And that is what our bill is trying to do.

I certainly appreciate the leadership of the Senator from Arizona. I am certainly with him on the McCain-Hutchison Government Shutdown Prevention Act which we believe very strongly is a matter of principle, it is a matter of responsible Government, it is a matter of fulfilling our responsibility to the Federal employees who serve our country, to the men and women in uniform that serve our country, to the people of our country who depend on Government services, such as running the parks and passports and veterans' benefits. All of these people deserve to know that we will make sure that they are taken care of in an orderly way, even if we have not been able to come to agreements on some appropriations bills by September 30.

Thank you, Mr. President.

I certainly appreciate once again the Senator from Arizona coming up and

trying to make sure that we talk about this in an orderly way.

I yield the floor.

Mr. McCAIN addressed the Chair.

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

Mr. McCAIN. I want to thank the Senator from Texas for her commitment to the people of her State and her efforts now for a long time to make sure that never again do we put the American people through the trauma of a Government shutdown.

I, as a conservative, believe in a minimal role of Government, but I am not a Libertarian. I do believe that there is a role for Government, and that is to provide basic and fundamental services to our citizens. That did not happen during the Government shutdown. I think we have an obligation to see that it does not happen again.

Mr. President, I want to point out again, we have been in negotiations with the White House on this issue. I believe the President of the United States, along with the Senator from West Virginia, who has many Federal workers in his State and many people who are dependent on the Federal Government, does not want another shutdown of the Government. I am still hopeful that at some point before we have a real showdown here and a possible veto of this very much needed supplemental appropriations bill, emergency supplemental appropriations bill, that we can get an agreement worked out that would prevent a shutdown of the Government ever again.

I have a lot to say, and I know that the Senator from West Virginia does, too. In fact, we were discussing the outlines of a unanimous consent agreement where the Senator from West Virginia would consume about 2½ hours tomorrow on this issue before we would vote on it. I look forward to that debate. I do not think we will need that much time.

I always pay attention to the arguments and discussions of the issues as articulated by the Senator from West Virginia. There is no one more respected in this body than the Senator from West Virginia. Some day he may leave, I am sure it will be after I do, but if and when he ever does, we will lose the corporate memory and the standards of conduct and behavior that was handed down to us by our predecessors. That flame is kept alive by the Senator from West Virginia. Over the past 10 years when I have been in the Senate in the company of the Senator from West Virginia, we have engaged in spirited but always respectful debate, occasionally on issues that the Senator from West Virginia feels the most passionate about—the line-item veto, of course, comes to mind.

I must admit again—I am almost sorry I brought it up—but I must admit again that the Senator from West Virginia has won the first round, a major victory in a Supreme Court decision concerning the line-item veto. I say to my friend from West Virginia the words of the famous philosopher Casey Stengel, "It isn't over till it's over," and I am glad the U.S. Supreme Court has expedited their procedures to give us a final rendering on this issue.

I yield to the Senator from Texas for a question.

Mrs. HUTCHISON. Mr. President, I correct the RECORD, because it was in fact the great philosopher Yogi Berra who said, "It ain't over till it's over." I did not want that to go unchallenged.

Mr. McCAIN. I thank the Senator from Texas, who is always in tune with the world's great philosophers, for correcting me on that, and I appreciate that.

But back to the issue at hand, I hope the Senator from West Virginia recognizes that I do take to heart his admonitions concerning a 98-percent funding as opposed to a full funding. It is clearly our intention to make this 100 percent funding, and that we could debate this issue on those parameters. I think it would be not as useful for us to be conducting this debate on this issue of the Prevention of the Shutdown of Government Act under conditions which would not prevail in the event of a final vote on this issue.

I respectfully, again, request the Senator from West Virginia if he would allow me to raise this to 100 percent and perhaps we could adjourn and discuss this issue tomorrow where we would have more attention from our colleagues and the American people. I do not mind debating and discussing this issue tonight, and the Senator from West Virginia and I have spent many evenings in debate and discussion, but I think with the importance of this issue, that it deserves tomorrow where we have, frankly, our friends in the media who will pay more attention and perhaps report this issue to the American people in a more accurate fashion than tonight.

So, having said all that, I request of my friend from West Virginia if I could make a unanimous consent agreement to set aside the pending amendment and call up amendment 112 for purposes of consideration and voice vote, and then return to the amendment of the Senator from West Virginia.

Mr. BYRD. Reserving the right to object, first of all, I appreciate very much the kind remarks that the distinguished Senator from Arizona has made in my direction. I can reciprocate by saying there is no Senator in this body who works harder, and few, perhaps, who work as hard and as effectively as does the distinguished Senator from Arizona. He amazes me with his ability to come up with amendments on almost every bill, and he seems to be conversant on virtually any subject to come before the Senate. I admire him for that.

Mr. President, whether it is 98 percent or 100 percent, I have to oppose such an amendment. I join with the Senator in expressing the hope that we can discuss this tomorrow where we, hopefully, will have a larger audience.

I prefer not to accede to his request tonight. I have lined up several speakers who are ready to speak on this language that is in the bill, and that is the language I attempted to strike in the committee earlier when we had markup. The Senator will get a vote one way or another on his proposal, I am sure. I hope, however, he would not press the request tonight, and let us return in the morning and think about it overnight. It may be I would accede to the request then, or I might not. But whether I do, he will find ways to get a vote on his amendment, or, as he says, he will move to table mine. He has several alternatives open to him. I hope we would not press the matter tonight, and we will come back, and, after a good night's rest, I will be prepared to take another look at it.

So I am constrained to object tonight, Mr. President.

The PRESIDING OFFICER. The objection is heard.

Mr. McCAIN. Mr. President, I am, of course, disappointed in the response of the Senator from West Virginia. I guess at this time I have to contemplate an amendment to table the motion of the Senator from West Virginia based on the grounds that if other speakers came and spoke on this issue, Mr. President, they would not be speaking about it in its entirety, in its actuality, when the entire Senate would decide on this issue.

In fact, I have already gotten a taste of that debate by saying that it would make all these draconian cuts to different programs, et cetera. I do not feel it is appropriate not to have an agreement that we should debate the issue as the Senator from Texas and I intended. I say that with all respect. I do not think it is appropriate not to have a debate and discussion until the true parameters and the intention of the sponsors of the amendment are taken into consideration.

So, Mr. President, in a moment I will suggest the absence of a quorum and then decide as to whether I will move to table, and call for a recorded vote at this time.

I suggest the absence of a quorum.

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

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

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

Mr. STEVENS. We had almost arranged for an amendment to be called up at 9 o'clock, to be voted on at 10

o'clock, and I discussed with Senator BYRD, does the Senator have any objection if we set aside this situation now and took up that other amendment and have it argued between 9 o'clock and 10 o'clock and come back to this amendment at 10 o'clock.

Mr. MCCAIN. I think that would be a reasonable compromise. I thank the Senator for his indulgence.

Mr. STEVENS. I am informed another Senator involved in that cannot be here before 10 o'clock.

Mr. MCCAIN. I do not see any other option I have except to move to table the amendment.

Mr. STEVENS. Mr. President, under the circumstances, under the informal agreements we have entered into before, I ask the vote on that motion to table be carried over until 10 o'clock in the morning; is that agreeable?

Mr. MCCAIN. Yes.

Mr. STEVENS. The vote will not occur tonight, and we will try to work in another amendment and take up this vote on this motion to table at a later time.

Mr. MCCAIN. I say, in due respect to the Senator from Alaska, I cannot agree at this moment that we will not have a recorded vote on a motion to table tonight. I have to reserve that right.

Mr. STEVENS. That is correct, because we still have to ask for unanimous consent, Senator, and we have not gotten that. I stated that is our intent not to have a vote tonight. We will try to work out this triangle and see if we can get the other amendment in before the vote, and if we can, we will do our best.

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

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

Mr. MCCAIN. 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. MCCAIN. Mr. President, I want to make it clear to the Senator from West Virginia that I am not trying to preclude debate and discussion on his amendment, and I would like to have an agreement which would allow, obviously, what the Senator from Texas and I are seeking, and that is raising to a 100 percent level, but also I would not presume, after all these years, to make a motion to table which would prevent the Senator from West Virginia in making full use of whatever time he feels necessary to debate this very important issue. I want to make that clear.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his characteristic courtesy and generosity. I would hope that we could wait until tomorrow so we could have more time, so that others on my side could be here to participate in the debate. And may I say, it may very well be that, by the time the sun rises on tomorrow, I may decide to remove my objection and let the Senator proceed with his amendment.

Mr. STEVENS. May I inquire if the Senator would agree that we could come in and start the debate earlier? I know the Senator didn't want to vote until later because of other Senators' arrival. Would the Senator agree that we could come back on the bill before 10? We are trying to finish by 6 o'clock tomorrow night. So the proceedings at that time could start.

Mr. BYRD. Could we begin at 9:30?

Mr. STEVENS. I would be delighted. I shall convey that to the leader. That will not be a vote; that will be continued debate.

Mr. BYRD. Exactly. Leave everything in the status quo until that moment.

Mr. STEVENS. We have other agreements we may get tonight pertaining to other Members. I will go back to a quorum call if everybody is finished.

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. MCCAIN. 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. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment of the Senator from West Virginia be set aside and the amendment which is at the desk, No. 112, be called up for immediate consideration.

Mr. BYRD. Mr. President, reserving the right to object. I hope that the Senator will simply ask unanimous consent that the "98 percent" be changed to "100 percent" so that my amendment may not be set aside.

UNANIMOUS CONSENT AGREEMENT

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment be raised from "98 percent" to "100 percent" of funding.

The PRESIDING OFFICER. For clarification, the words "98 percent" appear on line 19 of page 81; is that where you are changing that?

Mr. MCCAIN. Yes. I asked that it be changed to 100 percent.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, again, I thank the Senator from West Virginia, as always, for his courtesy. I look forward to a spirited elocution and informative debate on tomorrow.

I thank the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. WARNER. Mr. President, I rise to associate myself with comments made previously by my colleagues, Senator MCCAIN and Senator HUTCHISON. I rise in support of the Government Shutdown Prevention Act and the efforts to add this to the supplemental appropriations bill. This provision will create a statutory continuing resolution to safeguard Federal and military pay in the event of a Government shutdown. Further, it would provide for continuing appropriations for key Government functions in the event of a spending impasse like we suffered in 1995.

This provision, when attached to the emergency supplemental, will only take effect if the appropriations acts do not become law or if there is no continuing resolution in place at the beginning of the new fiscal year on October 1.

Although I am a strong supporter of the balanced budget and the reconciliation process, I am deeply concerned that our Federal employees could again be held hostage to the politics of the budget process between the Congress and the administration. Our Nation's dedicated civilian and uniformed Federal personnel should never again be penalized for the inability of Congress and the administration to agree on spending priorities.

As stated in a 1991 GAO report on Government shutdowns, closing the Government does not save money. In fact, the GAO reported that a mere 3-day workweek shutdown would cost taxpayers between $245 and $600 million. In this time of tight budgetary constraints, such irresponsible actions make no sense.

Mr. President, with more than 300,000 Federal employees and retirees in the Commonwealth of Virginia, the effects of a Government shutdown, even one of a short duration, would be devastating to our local economy.

The impact of the shutdown over the 1996 Federal budget spread beyond just our Federal employees in the metropolitan Washington region. It caused a ripple effect well beyond the Capital Beltway. From trips canceled due to lack of passports; to the closure of our National Parks and the economic impact on those communities who depend on tourists for their economic well-being; to our prisons and VA hospitals that must ask vendors to supply food on credit—the shutdown created havoc.

Federal employee are not the only group that is affected by a Federal Government shutdown. Thousands of companies, who contract with the Government, would be impacted unless a safety net is in place. These firms are dependent upon revenues for services and goods rendered, in order to keep their doors open and to continue paying their employees.

By an overwhelming majority, the American people are still fearful of the

reoccurrence of a Government shutdown. Our Federal employees remember November 14, 1995, and the following 6-day shutdown as Congress feuded over the 1996 Federal budget, at a total cost to the taxpayer of $800 million. They remember December 15, 1995, when the Government shut down again, this time for 21 days, at a total cost of $520 million.

I applaud the Republican leadership of Senator MCCAIN and Senator HUTCHISON. By providing this safety net against a potential trainwreck, we are changing the way that Government does business. We cannot continue business as usual when we play politics and appear cavalier in attitude toward our Federal employees—both civilian and military.

Mr. ABRAHAM. Mr. President, the bill before us addresses the effects of natural disasters which occurred in the Midwest and California. I would like, right now, to address a portion of the bill that is designed to prevent a man-made disaster. That provision, the safety net continuing resolution for fiscal year 1998, would, as Senator MCCAIN has made clear, prevent a Government shutdown in the event the regular annual appropriation bills are not enacted into law by October 1.

Mr. President, just over a year ago, on April 26, 1996, President Clinton signed legislation which ended a 7 month budget stalemate. That stalemate involved no fewer than 15 continuing resolutions, 2 full-fledged Government shutdowns—one lasting a record 27 days—and numerous Presidential vetoes. By President Clinton's own account, it cost the taxpayers $1.5 billion.

But the costs of this shutdown went beyond this $1.5 billion. Thousands upon thousands of Federal employees were furloughed. Thousands of small businesses, particularly those near national parks closed during the Government shutdown, suffered crippling loss of business. And American citizens suffered innumerable inconveniences, many of them quite serious.

For example, Mr. President, 10,000 new Medicare applications, 212,000 Social Security card requests, 360,000 individual office visits and 800,000 toll-free calls for information and assistance were turned away each day. Hundreds of thousands of ordinary Americans were inconvenienced, or had to temporarily forego benefits for which the Government requires things like Social Security cards, because we could not reach a budget agreement.

And the problems did not stop there. Some of our most vulnerable people suffered from the Government shutdown: 13 million AFDC recipients, 273,000 foster care children, over 100,000 children receiving adoption assistance services and over 100,000 Head Start children had their services delayed. And I have not even mentioned the 9 million Americans whose vacations and outings were ruined because they were turned away from our national parks and museums.

Mr. President, we must prevent this situation from occurring ever again. The Government shutdown caused inconvenience, occasional trauma, and a wide-spread increase in the cynicism of the American people, now more convinced than ever that our executive and legislative branches of Government are incapable of doing their jobs.

We can do our jobs, Mr. President, and we must see to it that we do them without allowing the Federal Government to again shut down. We must come to grips with the fact that, under current rules, Government shutdowns are a risk that must be addressed. 1995 was not the first year in which we had a Government shutdown. Over the last 20 years there have been numerous such occurrences, and even more numerous stopgap funding bills passed at the last minute to prevent them.

Part of the problem Mr. President, is our complicated budget process. As currently constituted, this process seems designed to confuse the people as they seek to understand what we are doing and exactly who is holding up agreement. In addition, Mr. President, the American people have elected divided government. They have chosen a President with one set of priorities, and a majority in Congress that in some ways has significantly different priorities.

As a result of a convoluted process and conflicting priorities, we are in the midst of a 2-year budget stalemate. I sincerely hope that the budget agreement announced on Friday will produce tax relief for the American people, a balanced budget by 2002, sufficient funding for our national defense, and much-needed spending restraint. If it includes these things, Mr. President, we may at last see an end to the budget stalemate.

But we cannot sit idly by in the hope that all will be well. We can and must strive in the meantime to ensure that this year no shutdown will occur even if the budget deal breaks down.

That is why I am urging my colleagues to support provisions in this continuing resolution that would put a safety net under our Government, and under the American people. It would create a statutory continuing resolution, triggered only if the appropriations acts do not become law or if there is no governing continuing resolution in place. This legislation would ensure that the Government does not shut down by funding Government programs next year at 98 percent.

What this means, Mr. President, is that the Federal Government, in case of a budget impasse, would be funded at a level sufficient to continue essential services—sufficient to prevent any real inconvenience to the American people—without undermining the incentive to pass appropriations bills on time.

It is my hope that we will not need this provision. It is my conviction that we should enact it so that the American people will continue to receive the services they expect from their Federal Government even if there is a budget impasse. I urge my colleagues to support this important, safety net provision.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BYRD. Mr. President, I ask unanimous consent that my pending amendment be set aside temporarily.

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

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

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

AMENDMENT NO. 235

(Purpose: To assure sufficient funding for Essential Air Service under the Rural Air Service Survival Act)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. KERREY, for himself, and Mr. DORGAN, proposes an amendment numbered 235.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill insert the following new language:

SEC. . Section 45301(b)(1)(A) of title 49, United States Code, is amended inserting before the semicolon "and at least $50,000,000 in FY 1998 and every year thereafter".

Mr. STEVENS. Mr. President, it is my understanding that the proponents of amendments Nos. 95 and 96 agree to this language. This new language is to be a substitute for the proposals before the body regarding international flight user fees. It has been agreed to by both sides and, therefore, is ready for passage.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 235) was agreed to.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that we now go into a period for routine morning business.

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

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 2

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending May 2, the United States imported 8,106,000 barrels of oil each day, 805,000 barrels more than the 7,301,000 imported during the same week 1 year ago.

Americans relied on foreign oil for 55.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 8,106,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 6, the Federal debt stood at $5,337,028,737,421.51.

One year ago, May 6, 1996, the Federal debt stood at $5,096,257,000,000.

Five years ago, May 6, 1992, the Federal debt stood at $3,882,040,000,000.

Ten years ago, May 6, 1987, the Federal debt stood at $2,278,744,000,000.

Fifteen years ago, May 6, 1982, the Federal debt stood at $1,057,151,000,000, which reflects a debt increase of more than $4 trillion (4,279,877,737,421.51) during the past 15 years.

TOBACCO TAXES

Mr. KENNEDY. Mr. President, last Friday's Wall Street Journal published the results of an April 1997 poll it conducted with NBC News. One of the questions in the survey deserves special attention.

The poll asked whether the American people support increasing cigarette taxes by 43 cents a pack, and returning much of the revenues to the States to provide health care for the Nation's uninsured children.

An overwhelming 72 percent of the respondents favored this proposal, which is contained in the legislation that Senator HATCH and I introduced last month.

The detailed breakdown of the responses shows that the plan has broad support among people of all ages, incomes, races, educational backgrounds, party affiliations, and geographic regions. Support is at least two-to-one in all 36 groups, and it is three-to-one or even four-to-one in 17 of the groups.

North and South, East and West, the American people support the Hatch-Kennedy bill.

I ask unanimous consent that the detailed breakdown of the Wall Street Journal-NBC News poll may be included in the RECORD.

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

Question: Two Senators, a Republican and a Democrat, have proposed increasing cigarette taxes by 43 cents a pack, and giving much of the money raised to help states provide health insurance for uninsured children. Based on this description, do you favor or oppose this plan?

WALL STREET JOURNAL/NBC NEWS POLL—APRIL 26–28, 1997

[Figures in percentage]

	Favor	Oppose	Not Sure
All adults	72	24	4
Men	67	30	3
Women	76	20	4
Northeast	73	20	7
Midwest	73	26	1
South	69	28	3
West	74	23	3
Whites	70	26	4
Blacks	80	16	4
Age 18–34	73	25	2
Age 35–49	74	23	3
Age 50–64	66	30	4
Age 65 and over	72	21	7
Under $20,000 income	74	23	3
$20,000–$30,000	76	21	3
$30,000–$50,000	70	28	2
Over $50,000	70	26	4
Urban	76	21	3
Suburb/towns	70	26	4
Rural	70	28	2
Registered voters	73	23	4
Non–registered adults	65	32	3
Democrats	79	18	3
Republicans	67	29	4
Independents	69	27	4
Clinton voters	80	17	3
Dole voters	64	31	5
Liberals	79	19	2
Moderates	79	19	2
Conservatives	64	31	5
Professionals/managers	76	21	3
White collar workers	77	20	3
Blue collar workers	62	35	3
High school or less	66	30	4
Some college	75	22	3
College graduates	75	21	4

CONSERVATION RESERVE PROGRAM

Mr. GORTON. Mr. President, the Conservation Reserve Program, a program vitally important to my State and many others, has recently been threatened on many fronts. I would like to make clear my intentions and views on several matters relating to the CRP.

Last week Congressman BOB SMITH was successful in passing H.R. 1342, legislation requiring USDA to reenroll winter crop land not accepted in the new CRP for one year. For the record, H.R. 1342 has received strong support from producers in my State and like Chairman SMITH, I, too, am very concerned for winter crop producers throughout the country. Unfortunately, we have received a loud message from the President that he strongly objects to the bill and would veto the measure if passed by Congress.

Knowing the President would veto H.R. 1342, I felt it necessary, at the very least, to send a letter to Secretary Glickman requesting that he permit producers to begin preparing CRP ground immediately for fall planting. I would like producers in my State to know that I will continue to work with Secretary Glickman to see that he addresses this problem. Further, let it be known, that I will oppose any attempt to cap or earmark enrollments to the Conservation Reserve Program.

Yesterday, 13 Senators joined me in sending a letter to Secretary Glickman outlining three critical issues concerning the Conservation Reserve Program. Let me now outline the issues raised in the letter.

First, producers throughout the country are currently faced with serious uncertainty as to whether or not their bids to enroll land in the CRP will be accepted. I believe it is very important for Secretary Glickman to notify producers this month whether their offers are accepted. I understand that Secretary Glickman is sympathetic to this problem and has announced he will notify all producers by late May. I have expressed my concern to Secretary Glickman and have encouraged him to allow producers to immediately begin preparing their land for fall planting of winter crops without penalty. This will allow producers to begin ground preparation in the event they are not accepted into the program. Producers in my State are concerned they will not have enough time nor enough moisture in the ground to grow winter crops if they do not begin preparing their land immediately. Simply put, time is running out for producers in my State. I understand that Secretary Glickman is willing to help solve this problem and I am hopeful that he will address this situation in a timely fashion.

Second, the House Appropriations Committee has placed a provision in the Emergency Disaster Supplemental bill capping CRP enrollments at 14 million acres. Many Senators, including myself, believe that this cap threatens the environmental commitment we made when we passed, and the President enacted, the 1996 Farm Bill. As a member of the Senate Appropriations Committee, I will work hard to see that this provision is omitted during the Emergency Disaster Supplemental Conference.

Third, the President has proposed reducing CRP enrollments by 2 million acres to pay for the development rights

of Crown Butte, Inc. I believe, as do many other Senators, that any cap or reduction in CRP enrollments would jeopardize the commitment Congress made to improve water quality, enhance wildlife habitat, and reduce wind and soil erosion.

In closing, I thank my colleagues for their support. The CRP is a vitally important program and I look forward to working with my colleagues and Secretary Glickman as we address these concerns.

Mr. President, I ask unanimous connsent that our letter to Secretary Glickman be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, May 6, 1997.

Hon. DAN GLICKMAN,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC.

DEAR MR. SECRETARY: We are writing to bring to your attention three matters of concern regarding the Conservation Reserve Program (CRP).

First, it is critically important that you fulfill the pledge you made in your April 29 letter to House Agriculture Committee Chairman Bob Smith that producers will be notified by late May of whether their offers to enroll land in the CRP have been accepted. As you are well aware, growers whose offers are not accepted into the program will not have enough time, nor the appropriate weather conditions, to prepare their current CRP acreage for fall planting. We understand that you are sympathetic to this unfortunate predicament and ask that you rectify this situation immediately. We seek your prompt approval of ground preparation practices necessary for fall planting of winter crops on all expiring CRP acreage without loss of payments. Specifically, we request that producers be permitted to remove cover crops without penalty beginning immediately.

Second, we applaud your opposition to any effort that would cap or earmark CRP enrollments. Like you, we believe the provision by the House Appropriations Committee to cap CRP enrollments at 14 million acres would jeopardize USDA's efforts to improve water quality, enhance wildlife habitat, reduce wind and soil erosion, and enroll additional acres under the Department's continuous signup initiative. We will be working hard to see that this provision, or any similar effort, is struck during the Emergency Supplemental Appropriations Conference. We welcome your support in this effort.

Third, we do not support President Clinton's proposal to reduce CRP enrollment by 2 million acres to pay for the development rights of Crown Butte Mines, Inc. We believe that limiting CRP enrollments would threaten the substantial environmental commitment we made when Congress passed and the President enacted the Federal Agriculture Improvement and Reform Act of 1996.

We strongly encourage you to address the time sensitive nature of our request. Winter crop producers throughout the country are in serious jeopardy and if they so choose, should be allowed to prepare their land for fall planting immediately.

We look forward to hearing from you and appreciate your support for an extremely important program.

Sincerely,

RICHARD G. LUGAR.
SLADE GORTON.
GORDON SMITH.
DIRK KEMPTHORNE.
PATTY MURRAY.
SAM BROWNBACK.
CHUCK HAGEL.
TOM HARKIN.
LARRY E. CRAIG.
CONRAD BURNS.
RON WYDEN.
PAT ROBERTS.
MAX BAUCUS.
MICHAEL B. ENZI.

MESSAGES FROM THE HOUSE

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R 1463. An act to authorize appropriations for fiscal years 1998 and 1999 for the Customs Service, the Office of the United States Trade Representative, and the International Trade Commission.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R 1463. An act to authorize appropriations for fiscal years 1998 and 1999 for the Customs Service, the Office of the United States Trade Representative, and the International Trade Commission; to the Committee on Finance.

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–1798. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, a rule (RIN1121–AA24) received on April 24, 1997; to the Committee on the Judiciary.

EC–1799. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, a rule entitled "Young American Medals Program" (RIN1121–AA37) received on April 24, 1997; to the Committee on the Judiciary.

EC–1800. A communication from the Regulatory Policy Officer of the Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Residency Requirements for Persons Acquiring Firearms" (RIN1512–AB66) received on April 21, 1997; to the Committee on the Judiciary.

EC–1801. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled "Visas" received on April 28, 1997; to the Committee on the Judiciary.

EC–1802. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled "Visas" received on April 28, 1997; to the Committee on the Judiciary.

EC–1803. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1804. A communication from the Acting General Counsel of the Office of Community Oriented Policing Services, Department of Justice, transmitting, pursuant to law, a rule entitled "Solid Waste Programs" (FRL5670–6) received on May 5, 1997; to the Committee on the Judiciary.

EC–1805. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, a report relative to sentencing guidelines; to the Committee on the Judiciary.

EC–1806. A communication from the Acting Chair of the National Indian Gaming Commission, transmitting, a draft of proposed legislation relative to assess fees; to the Committee on Indian Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Donald Rappaport, of the District of Columbia, to be Chief Financial Officer, Department of Education.

Hans M. Mark, of Texas, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring April 17, 2002. (Reappointment)

Anthony R. Sarmiento, of Maryland, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

Susan E. Trees, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

Marsha Mason, of New Mexico, to be a Member of the National Council on the Arts for a term expiring September 3, 2002.

Gerald N. Tirozzi, of Connecticut, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HAGEL:

S. 709. A bill to protect private property rights guaranteed by the fifth amendment to the Constitution by requiring Federal agencies to prepare private property taking impact analyses and by allowing expanded access to Federal courts; to the Committee on Governmental Affairs.

By Mr. BREAUX:

S. 710. A bill to amend the Internal Revenue Code of 1986 to extend the credit for

producing fuel from a nonconventional source to taxpayers using biomass fuel sources in the generation of electricity through the use of a suspension burning process; to the Committee on Finance.

By Mr. BREAUX (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. FRIST):

S. 711. A bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. HELMS):

S. 712. A bill to provide for a system to classify information in the interests of national security and a system to declassify such information; to the Committee on Governmental Affairs.

By Mr. DODD (for himself and Mr. DEWINE):

S. 713. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. AKAKA (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. HOLLINGS, Mr. WELLSTONE, and Mr. JEFFORDS):

S. 714. A bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans' Affairs; to the Committee on Veterans Affairs.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 715. A bill to redesignate the Dublin Federal Courthouse building located in Dublin, Georgia, as the J. Roy Rowland Federal Courthouse; to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. BURNS, Mr. GORTON, Mr. KEMPTHORNE, and Mr. ENZI):

S. 716. A bill to establish a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving, national, regional, and provincial trade-distorting differences between the countries with respect to the production, processing, and sale of cattle and beef, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. HARKIN, Mr. LOTT, Mr. KENNEDY, Mr. COATS, Mr. DODD, Mr. GREGG, Ms. MIKULSKI, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Mrs. MURRAY, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, and Mr. REED):

S. 717. A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GREGG (for himself and Mr. SMITH of New Hampshire):

S. Res. 85. A resolution expressing the sense of the Senate that individuals affected by breast cancer should not be alone in their fight against the disease; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 709. A bill to protect private property rights guaranteed by the fifth amendment to the Constitution by requiring Federal agencies to prepare private property taking impact analyses and by allowing expanded access to Federal courts; to the Committee on Governmental Affairs.

THE PRIVATE PROPERTY FAIRNESS ACT OF 1997

Mr. HAGEL. Mr. President, I rise today to introduce the Private Property Fairness Act of 1997. This bill will help ensure that when the Government issues regulations for the benefit of the public as a whole, it does not saddle just a few landowners with the whole cost of compliance. This bill will help enforce the U.S. Constitution's guarantee that the Federal Government cannot take private property without paying just compensation to the owner.

The dramatic growth in Federal regulation in recent decades has focused attention on a very murky area of property law, a regulatory area in which the law of takings is not yet settled to the satisfaction of most Americans.

The bottom line is that the law in this area is unfair. For example, if the Government condemns part of a farm to build a highway, it has to pay the farmer for the value of his land. But if the Government requires that same farmer stop growing crops on that same land in order to protect endangered species or conserve wetlands, the farmer gets no compensation. In both situations the Government has acted to benefit the general public and, in the process, has imposed a cost on the farmer. In both cases, the land is taken out of production and the farmer loses income. But only in the highway example is the farmer compensated for his loss. In the regulatory example, the farmer, or any other landowner, has to absorb all of the cost himself. This is not fair.

The legislation I am introducing today is an important step toward providing relief from these so-called regulatory takings. I know my distinguished colleague, Senator HATCH, intends to introduce an omnibus private property rights bill, and I look forward to working with him. My bill is a narrowly tailored approach that will make a real difference for property owners across America. It protects private property rights in two ways. First, it puts in place procedures that will stop or minimize takings by the Federal Government before they occur. The Government would have to jump a much higher hurdle before it can restrict the use of someone's privately owned property. For the first time, the Federal Government will have to determine in advance how its actions will impact the property owner, not just the wetland or the endangered species. This bill also would require the Federal Government to look for options other than restricting the use of private property to achieve its goal.

Second, if heavy Government regulations diminish the value of private property, this bill would allow the landowners to plead their case in a Federal district court, instead of forcing them into the U.S. Court of Federal Claims. This means, for example, that Nebraskans can have their case heard in a Nebraska courthouse; they won't have to travel to Washington, DC, at their own expense to seek relief. This bill makes the process easier, less costly, and more accessible and accountable so all citizens can fully protect their property rights.

For too long, Federal regulators have made private property owners bear the burdens and the costs of Government land use decisions. The result has been that real people suffer.

Joe Jeffrey is a farmer in Lexington, NE. Like most Americans, he is proud of his land. He believed his property was his to use and control as he saw fit.

Then he met the U.S. Fish and Wildlife Service and the Army Corps of Engineers.

In 1987, the long arm of the Federal bureaucracy reached onto Mr. Jeffrey's property in the form of wetlands regulations. Mr. Jeffrey was notified that he had to destroy two dikes on his land because they were constructed without the proper permits. Nearly 2 years later, the corps partially changed its mind and allowed Mr. Jeffrey to reconstruct one of the dikes because the corps lacked authority to make him destroy it in the first place.

Then floods damaged part of Mr. Jeffrey's irrigated pastureland and changed the normal water channel. Mr. Jeffrey set out to return the channel to its original course by moving sand that the flood had shifted. But the Government said "no." The corps told him he had to give public notice before he could repair his own property.

Then came the Endangered Species Act.

Neither least terns nor piping plovers—both federally protected endangered species—have ever nested on Mr. Jeffrey's property. But that didn't stop the regulators. The U.S. Fish and Wildlife Service wanted to designate Mr. Jeffrey's property as "critical habitat" for these protected species.

The bureaucrats could not even agree among themselves on what they wanted done. The Nebraska Department of Environmental Control wanted the area re-vegetated. But the U.S. Fish and Wildlife Service wanted the area kept free of vegetation. Mr. Jeffrey was caught in the middle.

This is a real regulatory horror story. And there's more.

Today—10 years after his regulatory struggle began—Mr. Jeffrey is faced

with eroded pastureland that cannot be irrigated and cannot be repaired without significant personal expense. The value of Mr. Jeffrey's land has been diminished by the Government's regulatory intrusion—but he has not been compensated. In fact, he has had to spend money from his own pocket to comply with the regulations. The Fish and Wildlife Service asked Mr. Jeffrey to modify his center pivot irrigation system to negotiate around the eroded area—at a personal cost of $20,000. And the issue is still not resolved.

Mr. President, we do not need more stories like Joe Jeffrey's in America. Our Constitution guarantees our people's rights. Congress must act to uphold those rights and guarantee them in practice, not just in theory. Government regulation has gone too far. We must make it accountable to the people. Government should be accountable to the people, not the people accountable to the Government.

What this issue comes down to is fairness. It is simply not fair and it is not right for the Federal Government to have the ability to restrict the use of privately owned property without compensating the owner. It violates the principles this country was founded on. This legislation puts some justice back into the system. It reins in regulatory agencies and gives the private property owner a voice in the process. It makes it easier for citizens to appeal any restrictions imposed on their land or property. It is the right thing to do. It is the just and fair thing to do.

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

S. 709

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Rights Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the ownership of private property plays an important role in the economic and social well-being of the Nation;

(2) the protection of private property from a taking by the Government without just compensation is an integral protection for private citizens incorporated into the United States Constitution by the fifth amendment and made applicable to the States by the fourteenth amendment;

(3) Federal agency actions that restrict the use of private property and result in a significant diminution in value of such property constitute a taking of that property and should be properly compensated;

(4) Federal agencies should consider the impact of agency actions, including regulations, on the use and ownership of private property; and

(5) owners of private property that is taken by a Federal agency action should be permitted to seek relief in Federal district court.

SEC. 3. STATEMENT OF POLICY.

The policy of the Federal Government is to protect the health, safety, and general welfare of the public in a manner that, to the extent practicable, avoids takings of private property.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "agency" means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government;

(2) the term "agency action" means any action, inaction, or decision taken by an agency and includes such an action, inaction, or decision taken by, or pursuant to—

(A) a statute, rule, regulation, order, guideline, or policy; or

(B) the issuance, denial, or suspension of any permit, license, or authorization;

(3) the term "owner" means the person with title, possession, or other property rights in property affected by any taking of such property; and

(4) the term "taking of private property" means any action whereby private property is taken in such a way as to require compensation under the fifth amendment to the United States Constitution.

SEC. 5. REQUIREMENT FOR PRIVATE PROPERTY TAKING IMPACT ANALYSIS.

(a) IN GENERAL.—To the fullest extent possible—

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies under this Act; and

(2) subject to subsection (b), each agency shall complete a private property taking impact analysis before taking any agency action (including the promulgation of a regulation) which is likely to result in a taking of private property.

(b) NONAPPLICATION.—Subsection (a)(2) shall not apply to—

(1) an action in which the power of eminent domain is formally exercised;

(2) an action taken—

(A) with respect to property held in trust by the United States; or

(B) in preparation for, or in connection with, treaty negotiations with foreign nations;

(3) a law enforcement action, including seizure, for a violation of law, of property for forfeiture or as evidence in a criminal proceeding;

(4) a communication between an agency and a State or local land-use planning agency concerning a planned or proposed State or local activity that regulates private property, regardless of whether the communication is initiated by an agency or is undertaken in response to an invitation by the State or local authority;

(5) the placement of a military facility or a military activity involving the use of solely Federal property;

(6) any military or foreign affairs function (including a procurement function under a military or foreign affairs function), but not including the civil works program of the Army Corps of Engineers; and

(7) any case in which there is an immediate threat to health or safety that constitutes an emergency requiring immediate response or the issuance of a regulation under section 553(b)(B) of title 5, United States Code, if the taking impact analysis is completed after the emergency action is carried out or the regulation is published.

(c) CONTENT OF ANALYSIS.—A private property taking impact analysis shall be a written statement that includes—

(1) the specific purpose of the agency action;

(2) an assessment of the likelihood that a taking of private property will occur under such agency action;

(3) an evaluation of whether such agency action is likely to require compensation to private property owners;

(4) alternatives to the agency action that would—

(A) achieve the intended purposes of the agency action; and

(B) lessen the likelihood that a taking of private property will occur; and

(5) an estimate of the potential liability of the Federal Government if the Government is required to compensate a private property owner as a result of the agency action.

(d) SUBMISSION TO OMB.—Each agency shall provide the analysis required under this section as part of any submission otherwise required to be made to the Office of Management and Budget relating to an agency action.

(e) PUBLIC AVAILABILITY OF ANALYSIS.—An agency shall—

(1) make each private property taking impact analysis available to the public; and

(2) to the greatest extent practicable, transmit a copy of such analysis to the owner and any other person with a property right or interest in the affected property.

SEC. 6. ALTERNATIVES TO TAKING OF PRIVATE PROPERTY.

Before taking any final agency action, the agency shall fully consider alternatives described in section 5(c)(4) and shall, to the maximum extent practicable, alter the action to avoid or minimize the taking of private property.

SEC. 7. CIVIL ACTION.

(a) STANDING.—If an agency action results in the taking of private property, the owner of such property may obtain appropriate relief in a civil action against the agency that has caused the taking to occur.

(b) JURISDICTION.—Notwithstanding sections 1346 or 1491 of title 28, United States Code—

(1) a civil action against the agency may be brought in either the United States District Court in which the property at issue is located or in the United States Court of Federal Claims, regardless of the amount in controversy; and

(2) if property is located in more than 1 judicial district, the claim for relief may be brought in any district in which any part of the property is located.

SEC. 8. GUIDANCE AND REPORTING REQUIREMENTS.

(a) GUIDANCE.—The Attorney General shall provide legal guidance in a timely manner, in response to a request by an agency, to assist the agency in complying with this Act.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and at the end of each 1-year period thereafter, each agency shall submit a report to the Director of the Office of Management and Budget and the Attorney General that identifies—

(A) each agency action that has resulted in the preparation of a taking impact analysis;

(B) the filing of a taking claim; and

(C) any award of compensation pursuant to the just compensation clause of the fifth amendment to the Constitution.

(2) PUBLICATION OF REPORTS.—The Director of the Office of Management and Budget and the Attorney General shall publish in the Federal Register, on an annual basis, a compilation of the reports of all agencies made under this paragraph.

SEC. 9. PRESUMPTIONS IN PROCEEDINGS.

For the purpose of any agency action or administrative or judicial proceeding, there shall be a rebuttable presumption that the costs, values, and estimates in any private property takings impact analysis shall be outdated and inaccurate, if—

(1) such analysis was completed 5 years or more before the date of such action or proceeding; and

(2) such costs, values, or estimates have not been modified within the 5-year period preceding the date of such action or proceeding.

SEC. 10. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed to—

(1) limit any right or remedy, constitute a condition precedent or a requirement to exhaust administrative remedies, or bar any claim of any person relating to such person's property under any other law, including claims made under this Act, section 1346 or 1402 of title 28, United States Code, or chapter 91 of title 28, United States Code; or

(2) constitute a conclusive determination of—

(A) the value of any property for purposes of an appraisal for the acquisition of property, or for the determination of damages; or

(B) any other material issue.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect 120 days after the date of enactment of this Act.

By Mr. BREAUX (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. FRIST):

S. 711. A bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits; to the Committee on Finance.

THE DISTILLED SPIRITS TAX PAYMENT SIMPLIFICATION ACT OF 1997

Mr. BREAUX. Mr. President, I rise today with Mr. BRYAN, Mr. D'AMATO and Mr. FRIST to introduce the Distilled Spirits Tax Payment Simplification Act of 1997, a bill more readily known as All-in-Bond. This bill would streamline the way in which the government collects federal excise tax on distilled spirits by extending the current system of collection now applicable only to imported products to domestic products as well.

Today wholesalers purchase foreign bottled distilled spirits in bond—tax free—paying the Federal excise tax directly after sale to a retailer. In contrast, when the wholesaler buys domestically bottled spirits—nearly 86 percent of total inventory—the price includes the Federal excise tax, pre-paid by the distiller. This means that hundreds of U.S. family-owned wholesale businesses increase their inventory carrying costs by 40 percent when buying U.S. products, which often have to be financed through borrowing.

Under my bill, wholesalers would be allowed to purchase domestically bottled distilled spirits in-bond from distillers just as they are now permitted to purchase foreign produced spirits. Products would become subject to tax on removal from wholesale premises. This legislation is designed to be revenue neutral and includes the requirement that any wholesaler electing to purchase spirits in bond must make certain estimated tax payments to Treasury before the end of the fiscal year.

All-in-Bond is an equitable and sound way to streamline our tax collection system. 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. 711

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Distilled Spirits Tax Payment Simplification Act of 1997".

(b) REFERENCE TO 1986 CODE.—Except as otherwise expressly provided, whenever an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TRANSFER OF DISTILLED SPIRITS BETWEEN BONDED PREMISES.

(a) IN GENERAL.—Section 5212 is amended to read as follows:

"SEC. 5212. TRANSFER OF DISTILLED SPIRITS BETWEEN BONDED PREMISES.

"Distilled spirits on which the internal revenue tax has not been paid as authorized by law may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises in any approved container. For the purposes of this chapter, except in the case of any transfer from a premise of a bonded dealer, the removal of distilled spirits for transfer in bond between bonded premises shall not be construed to be a withdrawal from bonded premises.".

(b) CONFORMING AMENDMENT.—The first sentence of section 5232(a) (relating to transfer to distilled spirits plant without payment of tax) is amended to read as follows: "Distilled spirits imported or brought into the United States, under such regulations as the Secretary shall prescribe, may be withdrawn from customs custody and transferred to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on such distilled spirits.".

SEC. 3. ESTABLISHMENT OF DISTILLED SPIRITS PLANT.

Section 5171 (relating to establishment) is amended—

(1) in subsection (a), by striking "or processor" and inserting "processor, or bonded dealer";

(2) in subsection (b), by striking "or as both" and inserting "as a bonded dealer, or as any combination thereof";

(3) in subsection (e)(1), by inserting ", bonded dealer," before "processor"; and

(4) in subsection (e)(2), by inserting "bonded dealer," before "or processor".

SEC. 4. DISTILLED SPIRITS PLANTS.

Section 5178(a) (relating to location, construction, and arrangement) is amended by adding at the end the following:

"(5) BONDED DEALER OPERATIONS.—Any person establishing a distilled spirits plant to conduct operations as a bonded dealer may, as described in the application for registration—

"(A) store distilled spirits in any approved container on the bonded premises of such plant, and

"(B) under such regulations as the Secretary shall prescribe, store taxpaid distilled spirits, beer, and wine, and such other beverages and items (products) not subject to tax or regulation under this title on such bonded premises.".

SEC. 5. BONDED DEALERS.

(a) DEFINITIONS.—Section 5002(a) (relating to definitions) is amended by adding at the end the following:

"(16) BONDED DEALER.—The term 'bonded dealer' means any person who has elected under section 5011 to be treated as a bonded dealer.

"(17) CONTROL STATE ENTITY.—The term 'control State entity' means a State, a political subdivision of a State, or any instrumentality of such a State or political subdivision, in which only the State, political subdivision, or instrumentality is allowed under applicable law to perform distilled spirit operations.".

(b) ELECTION TO BE TREATED AS A BONDED DEALER.—Subpart A of part I of subchapter A of chapter 51 (relating to distilled spirits) is amended by adding at the end the following:

"SEC. 5011. ELECTION TO BE TREATED AS BONDED DEALER.

"(a) ELECTION.—Any wholesale dealer or any control State entity may elect, at such time and in such manner as the Secretary shall prescribe, to be treated as a bonded dealer if such wholesale dealer or entity sells bottled distilled spirits exclusively to a wholesale dealer in liquor, to an independent retail dealer subject to the limitation set forth in subsection (b), or to another bonded dealer.

"(b) LIMITATION IN CASE OF SALES TO RETAIL DEALERS.—

"(1) BY BONDED DEALER.—Any person, other than a control State entity, who is a bonded dealer shall not be considered as selling to an independent retail dealer if—

"(A) the bonded dealer has a greater than 10 percent ownership interest in, or control of, the retail dealer;

"(B) the retail dealer has a greater than 10 percent ownership interest in, or control of, the bonded dealer; or

"(C) any person has a greater than 10 percent ownership interest in, or control of, both the bonded and retail dealer.

For purposes of this paragraph, ownership interest, not limited to stock ownership, shall be attributed to other persons in the manner prescribed by section 318.

"(2) BY CONTROL STATE ENTITY.—In the case of any control State entity, subsection (a) shall be applied by substituting 'retail dealer' for 'independent retail dealer'.

"(c) INVENTORY OWNED AT TIME OF ELECTION.—Any bottled distilled spirits in the inventory of any person electing under this section to be treated as a bonded dealer shall, to the extent that the tax under this chapter has been previously determined and paid at the time the election becomes effective, not be subject to such additional tax on such spirits as a result of the election being in effect.

"(d) REVOCATION OF ELECTION.—The election made under this section may be revoked by the bonded dealer at any time, but once revoked shall not be made again without the consent of the Secretary. When the election is revoked, the bonded dealer shall immediately withdraw the distilled spirits on determination of tax in accordance with a tax

payment procedure established by the Secretary.

"(e) EQUITABLE TREATMENT OF BONDED DEALERS USING LIFO INVENTORY.—The Secretary shall provide such rules as may be necessary to assure that taxpayers using the last-in, first-out method of inventory valuation do not suffer a recapture of their LIFO reserve by reason of making the election under this section or by reason of operating a bonded wine cellar as permitted by section 5351.

"(f) APPROVAL OF APPLICATION.—Any person submitting an application under section 5171(c) and electing under this section to be treated as a bonded dealer shall be entitled to approval of such application to the same extent such person would be entitled to approval of an application for a basic permit under section 104(a)(2) of the Federal Alcohol Administration Act (27 U.S.C 204(a)(2)), and shall be accorded notice and hearing as described in section 104(b) of such Act (27 U.S.C. 204(b)).".

(c) CONFORMING AMENDMENT.—The tables of sections of subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following:

"Sec. 5011. Election to be treated as bonded dealer.".

SEC. 6. DETERMINATION OF TAX.

The first sentence of section 5006(a)(1) (relating to requirements) is amended to read as follows: "Except as otherwise provided in this section, the tax on distilled spirits shall be determined when the spirits are transferred from a distilled spirits plant to a bonded dealer or are withdrawn from bond.".

SEC. 7. LOSS OR DESTRUCTION OF DISTILLED SPIRITS.

Section 5008 (relating to abatement, remission, refund, and allowance for loss or destruction of distilled spirits) is amended—

(1) in subsections (a)(1)(A) and (a)(2), by inserting "bonded dealer," after "distilled spirits plant," both places it appears;

(2) in subsection (c)(1), by striking "of a distilled spirits plant"; and

(3) in subsection (c)(2), by striking "distilled spirits plant" and inserting "bonded premises".

SEC. 8. TIME FOR COLLECTING TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5061(d) (relating to time for collecting tax on distilled spirits, wines, and beer) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following:

"(5) ADVANCED PAYMENT OF DISTILLED SPIRITS TAX.—Notwithstanding the preceding provisions of this subsection, in the case of any tax imposed by section 5001 with respect to a bonded dealer who has an election in effect on September 20 of any year, any payment of which would, but for this paragraph, be due in October or November of that year, such payment shall be made on such September 20. No penalty or interest shall be imposed for the period from such September 20 until the due date determined without regard to this paragraph to the extent that tax due exceeds the tax which would have been due with respect to distilled spirits in the preceding October and November had the election under section 5011 been in effect.".

(b) CONFORMING AMENDMENT.—Section 5061(e)(1) (relating to payment by electronic fund transfer) is amended by inserting "or any bonded dealer," after "respectively,".

SEC. 9. EXEMPTION FROM OCCUPATIONAL TAX NOT APPLICABLE.

Section 5113(a) (relating to sales by proprietors of controlled premises) is amended by adding at the end the following: "This subsection shall not apply to a proprietor of a distilled spirits plant whose premises are used for operations of a bonded dealer.".

SEC. 10. CONFORMING AMENDMENTS.

(1) Section 5003(3) is amended by striking "certain".

(2) Section 5214 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) EXCEPTION.—Paragraphs (1), (2), (3), (5), (10), (11), and (12) of subsection (a) shall not apply to distilled spirits withdrawn from premises used for operations as a bonded dealer.".

(3) Section 5215 is amended—

(A) in subsection (a), by striking "the bonded premises" and all that follows through the period and inserting "bonded premises.";

(B) in the heading of subsection (b), by striking "A DISTILLED SPIRITS PLANT" and inserting "BONDED PREMISES"; and

(C) in subsection (d), by striking "a distilled spirits plant" and inserting "bonded premises".

(4) Section 5362(b)(5) is amended by adding at the end the following: "The term does not mean premises used for operations as a bonded dealer.".

(5) Section 5551(a) is amended by inserting "bonded dealer," after "processor" both places it appears.

(6) Subsections (a)(2) and (b) of section 5601 are each amended by inserting ", bonded dealer," before "or processor" .

(7) Paragraphs (3), (4), and (5) of section 5601(a) are each amended by inserting "bonded dealer," before "or processor" .

(8) Section 5602 is amended—

(A) by inserting ", warehouseman, processor, or bonded dealer" after "distiller"; and

(B) in the heading, by striking "**by distiller**".

(9) Sections 5115, 5180, and 5681 are repealed.

(10) The table of sections for part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(11) The table of sections for subchapter B of chapter 51 is amended by striking the item relating to section 5180.

(12) The item relating to section 5602 in the table of sections for part I of subchapter J of chapter 51 is amended by striking "by distiller".

(13) The table of sections for part IV of subchapter J of chapter 51 is amended by striking the item relating to section 5681.

SEC. 11. REGISTRATION FEES.

(a) GENERAL RULE.—The Director of the Bureau of Alcohol, Tobacco, and Firearms shall, in accordance with this section, assess and collect registration fees solely to defray a portion of any net increased costs of regulatory activities of the Government resulting from enactment of this Act.

(b) PERSONS SUBJECT TO FEE.—Fees shall be paid in a manner prescribed by the Director by the bonded dealer.

(c) AMOUNT AND TIMING OF FEES.—Fees shall be paid annually and shall not exceed $1,000 per bonded premise.

(d) DEPOSIT AND CREDIT.—The moneys received during any fiscal year from fees described in subsection (a) shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to conduct the regulatory activities of the Government resulting from enactment of this Act.

(e) LIMITATION.—The aggregate amount of fees assessed and collected under this section may not exceed in any fiscal year the aggregate amount of any net increased costs of regulatory activity referred to in subsection (a).

SEC. 12. COOPERATIVE AGREEMENTS.

(a) STUDY.—The Secretary of the Treasury shall study and report to Congress concerning possible administrative efficiencies which could inure to the benefit of the Federal Government of cooperative agreements with States regarding the collection of distilled spirits excise taxes. Such study shall include, but not be limited to, possible benefits of the standardization of forms and collection procedures and shall be submitted 1 year after the date of enactment of this Act.

(b) COOPERATIVE AGREEMENT.—The Secretary of the Treasury is authorized to enter into such cooperative agreements with States which the Secretary deems will increase the efficient collection of distilled spirits excise taxes.

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act take effect on the date which is 120 days after the date of enactment of this Act.

(b) EXCEPTIONS.—

(1) ESTABLISHMENT OF DISTILLED SPIRITS PLANT.—The amendments made by section 3 take effect on the date of enactment of this Act.

(2) SPECIAL RULE.—Each wholesale dealer who is required to file an application for registration under section 5171(c) of the Internal Revenue Code of 1986 whose operations are required to be covered by a basic permit under sections 103 and 104 of the Federal Alcohol Administration Act (27 U.S.C. 203, 204) and who has received such basic permits as an importer, wholesaler, or as both, and has obtained a bond required under subchapter B of chapter 51 of subtitle E of such Code before the close of the fourth month following the date of enactment of this Act, shall be qualified to operate bonded premises until such time as the Secretary of the Treasury takes final action on the application. Any control State entity (as defined in section 5002(a)(17) of such Code, as added by section 5(a)) that has obtained a bond required under such subchapter shall be qualified to operate bonded premises until such time as the Secretary of the Treasury takes final action on the application for registration under section 5171(c) of such Code.

By Mr. MOYNIHAN (for himself and Mr. HELMS):

S. 712. A bill to provide for a system to classify information in the interests of national security and a system to declassify such information; to the Committee on Governmental Affairs.

THE GOVERNMENT SECRECY ACT OF 1997

Mr. MOYNIHAN. Mr. President, I am pleased to join with my colleague from North Carolina, Senator HELMS, in introducing the Government Secrecy Act of 1997. Congressmen LARRY COMBEST of Texas and LEE HAMILTON of Indiana are introducing companion legislation in the House of Representatives this afternoon. The four of us, along with eight other distinguished individuals, served for the past 2 years on the Commission on Protecting and Reducing Government Secrecy.

Earlier today, the four of us testified together at a hearing of the Committee on Governmental Affairs called by Chairman THOMPSON to review the

Commission's report, issued in March. The legislation that we introduce today is intended to implement one of the core recommendations of that Commission: The need for a statute establishing the principles to govern the classification and declassification of information. The remarks that follow track my testimony before the Governmental Affairs Committee this morning.

We begin by defining our subject. "Secrecy is a form of government regulation." It can be understood in terms of a now considerable literature concerning how organizations function. Begin with the German scholar Max Weber, writing eight decades ago in his chapter "Bureaucracy" in "Wirtschaft und Gesellschaft" (Economy and Society):

> Every bureaucracy seeks to increase the superiority of the professionally informed by keeping their knowledge and intentions secret. Bureaucratic administration always tends to be an administration of "secret sessions"; in so far as it can, it hides its knowledge and action from criticism. The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the "official secret" is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude, which cannot be substantially defended beyond these specifically qualified areas.

Normal regulation concerns how citizens are to behave. As the administrative state developed in the United States, beginning with the Progressive Era at the turn of the century and expanding greatly under the New Deal, legal scholars began to ask just what these new rules were. Were they laws? If not, then what? In 1938, Roscoe Pound, chairman of the American Bar Association's Special Committee on Administrative Law and former Dean of the Harvard Law School, attacked those "who would turn the administration of justice over to administrative absolutism . . . a Marxian idea," and inveighed against those "progressives, liberals, or radicals who desire to invest the National Government with totalitarian powers in the teeth of constitutional democracy . . ."

We managed to get a handle on that system, in no small measure through the efforts of Erwin Griswold, also a dean of the Harvard Law School, and others who decried the fact that administrative regulations equivalent to law had become increasingly important to everyday life and yet were not available to the public. One year after Professor Griswold published a seminal article calling for the publication of such rules and regulations, Congress enacted the Federal Register Act of 1935. Eleven years later, in 1946, working from the recommendations made in 1941 by the Attorney General's Committee on Administrative Procedure, chaired by Dean Acheson, Congress enacted the Administrative Procedure Act.

Thus, today our system of public regulation is public indeed. Regulations are both widely accessible and subject to the APA's set of procedural requirements—bringing a degree of order and accountability to this regime.

Secrecy, by contrast, concerns what citizens may know, but the citizen does not know what may not be known. Our Commission states:

> Americans are familiar with the tendency to overregulate in other areas. What is different with secrecy is that the public cannot know the extent or the content of the regulation.

Thus, secrecy is the ultimate mode of regulation; the citizen does not even know that he or she is being regulated. It is a parallel regulatory regime with a far greater potential for damage if it malfunctions.

Flowing from this understanding of secrecy as regulation is the recognition that, to paraphrase Justice Potter Stewart's opinion in the Pentagon Papers case, when everything is secret, nothing is secret. We state:

> The best way to ensure that secrecy is respected, and that the most important secrets remain secret, is for secrecy to be returned to its limited but necessary role. Secrets can be protected more effectively if secrecy is reduced overall.

It is time to reexamine the foundations of that secrecy system. The Information Security Oversight Office report to Congress last week estimated the direct costs of secrecy at $5.2 billion in 1996 alone. The same Office reports that in 1995 we had 21,871 original new top secret designations and another 374,244 derivative top secret designations. Meaning that, in a single year, roughly 400,000 new secrets were created at the Top Secret level alone—the disclosure of any one of which would cause exceptionally grave damage to the national security.

It is also time to examine the appropriateness of security arrangements put in place during an earlier age, when the perceived threats were so different from those of today. In 1957, the only previous commission established by the Congress to examine the secrecy system—the Commission on Government Security—issued a report that, for any number of reasons—in particular the fact that its core recommendation that amounted to prior restraint of the press—did nothing to change the prevailing mode. Although the Commission did understand classification as a cost; its report "stresses the dangers to national security that arise out of overclassification of information which retards scientific and technological progress, and thus tend to deprive the country of the lead time that results from the free exchange of ideas and information."

When the Commission on Government Security presented its report to President Eisenhower and the Congress, we still were consumed with concerns about a Federal Government infiltrated by ideological enemies of the United States. Today, the public and its representatives have few such concerns; indeed, today it is the U.S. Government that increasingly is the object of what Edward Shils in 1956, in "The Torment of Secrecy," termed the "phantasies of apocalyptic visionaries."

We are not proposing putting an end to secrecy. It is at times terribly necessary and used for the most legitimate reasons. But secrecy need not remain the only norm: We must develop a competing culture of openness, fully consistent with our interests in protecting national security, but in which power is no longer derived primarily from one's ability to withhold information.

I am struck in this regard by a most remarkable letter that I received on March 25 from George F. Kennan, professor emeritus at the Institute for Advanced Study in Princeton, NJ, in response to our Commission report. As lucid and thoughtful as ever at age 93, Professor Kennan builds a compelling case for the proposition that much of our secrecy system arose out of our efforts to penetrate the obsessively secretive Soviet Communist regime of the Stalin era. And that the system we put in place remains largely intact today, even as that adversary has disappeared. Professor Kennan writes:

> It is my conviction, based on some 70 years of experience, first as a government official and then in the past 45 years as an historian, that the need by our government for secret intelligence about affairs elsewhere in the world has been vastly over-rated. I would say that something upwards of 95% of what we need to know about foreign countries could be very well obtained by the careful and competent study of perfectly legitimate sources of information open and available to us in the rich library and archival holdings of this country.

I ask unanimous that the full text of Professor Kennan's letter be inserted in the RECORD.

I should note further that Professor Kennan's conclusion about the share of information available from open sources also has been reached by other notable observers of the secrecy system—the estimable George P. Shultz among them.

Developing a culture of openness within the Federal Government requires that secrecy be defined in statute. A statute will not put an end to overclassification and needless classification, but it will help by ensuring that the present regulatory regime cannot simply continue to flourish without any restraint. Classification should proceed according to law; classifiers should know that they are acting lawfully and properly. We need to balance the possibility of harm to national security against the public's right to know what the Government is doing, or not doing. We should establish by statute that secrecy belongs in

the realm of national security and must serve that interest alone. It should not be employed as a badge of office or a status symbol.

Thus we propose this statute, the Government Secrecy Act of 1997. As noted, Representatives COMBEST and HAMILTON are cosponsoring a companion measure in the House of Representatives. This legislation—defining the principles and standards to govern classification and declassification, and establishing within an existing agency a National Declassification Center to coordinate responsibility for declassifying historical documents—is drawn directly from the Commission's recommendation for such a statute, as set out in the summary and in chapter I of our report.

I look forward to reviewing the legislation, as well as the other findings and recommendations of the Commission, with Members of this body, as well as our colleagues in the House of Representatives, executive branch officials, and interested persons outside of Government, in the weeks ahead.

I send the bill to the desk and ask unanimous consent that it be printed in the RECORD and be referred to the appropriate committee.

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

S. 712

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 "Government Secrecy Act of 1997".

SEC. 2. PURPOSE.

It is the purpose of this Act to promote the effective protection of classified information and the disclosure of information where there is not a well-founded basis for protection or where the costs of maintaining a secret outweigh the benefits.

SEC. 3. FINDINGS.

The Congress makes the following findings:

(1) The system for classifying and declassifying national security information has been based in regulation, not in statute, and has been governed by six successive Executive orders since 1951.

(2) The Commission on Protecting and Reducing Government Secrecy, established under Public Law 103-236, issued its report on March 4, 1997 (S. Doc. 105-2), in which it recommended reducing the volume of information classified and strengthening the protection of classified information.

(3) The absence of a statutory framework has resulted in unstable and inconsistent classification and declassification policies, excessive costs, and inadequate implementation.

(4) The implementation of Executive orders will be even more costly as more documents are prepared and used on electronic systems.

(5) United States taxpayers incur substantial costs as several million documents are classified each year. According to figures submitted to the Information Security Oversight Office and the Congress, the executive branch and private industry together spent more than $5.2 billion in 1996 to protect classified information.

(6) A statutory foundation for the classification and declassification of information is likely to result in a more stable and cost-effective set of policies and a more consistent application of rules and procedures.

(7) Enactment of a statute would create an opportunity for greater oversight by the Congress of executive branch classification and declassification activities, without impairing the responsibility of executive branch officials for the day-to-day administration of the system.

SEC. 4. CLASSIFICATION AND DECLASSIFICATION OF INFORMATION.

(a) CLASSIFICATION FOR NATIONAL SECURITY REASONS.—The President may, in accordance with this Act, protect from unauthorized disclosure information in the possession and control of the executive branch when there is a demonstrable need to do so in order to protect the national security of the United States. The President shall ensure that the amount of information classified is the minimum necessary to protect the national security.

(b) PROCEDURES FOR CLASSIFICATION AND DECLASSIFICATION.—

(1) IN GENERAL.—The President shall, to the extent necessary, establish categories of information that may be classified and procedures for classifying information under subsection (a). The President shall, concurrently with the establishment of such categories and procedures, establish, and allocate resources for the implementation of, procedures for declassifying information previously classified.

(2) PUBLICATION OF CATEGORIES AND PROCEDURES.—

(A) The President shall publish notice in the Federal Register of any categories and procedures proposed to be established under paragraph (1) with respect to both the classification and declassification of information, and shall provide an opportunity for interested agencies and other interested persons to submit comments thereon. The President shall take into account such comments before establishing the categories and procedures, which shall also be published in the Federal Register.

(B) The procedures set forth in subparagraph (A) shall apply to any modifications in categories or procedures established under paragraph (1).

(3) AGENCY STANDARDS AND PROCEDURES.—The head of each agency shall establish standards and procedures for classifying and declassifying information created by that agency on the basis of the categories and procedures established by the President under paragraph (1). Each agency head, in establishing and modifying standards and procedures under this paragraph, shall follow the procedures required of the President in paragraph (2) for establishing and modifying categories and procedures under that paragraph.

(c) CONSIDERATIONS IN DETERMINING CLASSIFICATION AND DECLASSIFICATION.—

(1) IN GENERAL.—In determining whether information should be classified or declassified, the agency official making the determination shall weigh the benefit from public disclosure of the information against the need for initial or continued protection of the information under the classification system. If there is significant doubt as to whether information requires such protection, it shall not be classified.

(2) WRITTEN JUSTIFICATION.—

(A) ORIGINAL CLASSIFICATION.—The agency official who makes the decision to classify information shall identify himself or herself and shall provide in writing a detailed justification for that decision.

(B) DERIVATIVE CLASSIFICATION.—In any case in which an agency official classifies a document on the basis of information previously classified that is included or referenced in the document, that agency official shall identify himself or herself in that document.

(d) STANDARDS FOR DECLASSIFICATION.—

(1) INITIAL CLASSIFICATION PERIOD.—Information may not remain classified under this Act for longer than a 10-year period unless the head of the agency that created the information certifies to the President at the end of such period that the information requires continued protection, based on a current assessment of the risks of disclosing the information, carried out in accordance with subsection (c)(1).

(2) ADDITIONAL CLASSIFICATION PERIOD.—Information not declassified prior to or at the end of the 10-year period referred to in paragraph (1) may not remain classified for more than a 30-year period unless the head of the agency that created the information certifies to the President at the end of such 30-year period that continued protection of the information from unauthorized disclosure is essential to the national security of the United States or that demonstrable harm to an individual will result from release of the information.

(3) DECLASSIFICATION SCHEDULES.—All classified information shall be subject to regular review pursuant to schedules each agency head shall establish and publish in the Federal Register. Each agency shall follow the schedule established by the agency head in declassifying information created by that agency.

(4) ASSESSMENT OF EXISTING CLASSIFIED INFORMATION.—Each agency official responsible for information which, before the effective date of this Act—

(A) was determined to be kept protected from unauthorized disclosure in the interest of national security, and

(B) had been kept so protected for longer than the 10-year period referred to in paragraph (1),

shall, to the extent feasible, give priority to making decisions with respect to declassifying that information as soon as is practicable.

(e) REPORTS TO CONGRESS.—Not later than December 31 of each year, the head of each agency that is responsible for the classification and declassification of information shall submit to the Congress a report that describes the application of the classification and declassification standards and procedures of that agency during the preceding fiscal year.

(f) AMENDMENT TO FREEDOM OF INFORMATION ACT.—Section 552(b)(1) of title 5, United States Code, is amended to read as follows:

"(1)(A) specifically authorized to be classified under the Government Secrecy Act of 1997, or specifically authorized, before the effective date of that Act, under criteria established by an Executive order to be kept secret in the interest of national security (as defined by section 7(6) of the Government Secrecy Act of 1997), and (B) are in fact properly classified pursuant to that Act or Executive order;".

SEC. 5. NATIONAL DECLASSIFICATION CENTER.

(a) ESTABLISHMENT.—The President shall establish, within an existing agency, a National Declassification Center, the functions of which shall be—

(1) to coordinate and oversee the declassification policies and practices of the Federal Government; and

(2) to provide technical assistance to agencies in implementing such policies and practices, in accordance with this section.

(b) FUNCTIONS.—

(1) DECLASSIFICATION OF INFORMATION.—The Center shall, at the request of any agency and on a reimbursable basis, declassify information within the possession of that agency pursuant to the guidance of that agency on the basis of the declassification standards and procedures established by that agency under section 4, or if another agency created the information, pursuant to the guidance of that other agency on the basis of the declassification standards and procedures established by that agency under section 4. In carrying out this paragraph, the Center may use the services of officers or employees or the resources of another agency, with the consent of the head of that agency.

(2) COORDINATION OF POLICIES.—The Center shall coordinate implementation by agencies of the declassification policies and procedures established by the President under section 4 and shall ensure that declassification of information occurs in an efficient, cost-effective, and consistent manner among all agencies that create or otherwise are in possession of classified information.

(3) DISPUTES.—If disputes arise among agencies regarding whether information should or should not be classified, or between the Center and any agency regarding the Center's functions under this section, the heads of the agencies concerned or of the Center may refer the matter to the President for resolution of the dispute.

(c) NATIONAL DECLASSIFICATION ADVISORY COMMITTEE.—

(1) IN GENERAL.—There is established a 12-member National Declassification Advisory Committee. 4 members of the Advisory Committee shall be appointed by the President and 2 members each shall be appointed by the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives.

(2) MEMBERSHIP.—The members of the Advisory Committee shall be appointed from among distinguished historians, political scientists, archivists, other social scientists, and other members of the public who have a demonstrable expertise in declassification and the management of Government records. No officer or employee of the United States Government shall be appointed to the Advisory Committee.

(3) DUTIES.—The Advisory Committee shall provide advice to the Center and make recommendations concerning declassification priorities and activities.

(d) ANNUAL REPORTS.—The Center shall submit to the President and the Congress, not later than December 31 of each year, a report on its activities during the preceding fiscal year, and on the implementation of agency declassification practices and its efforts to coordinate those practices.

SEC. 6. INFORMATION TO THE CONGRESS.

Nothing in this Act shall be construed to authorize the withholding of information from the Congress.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Advisory Committee" means the National Declassification Advisory Committee established under section 5(c);

(2) the term "agency" means any executive agency as defined in section 105 of title 5, United States Code, any military department as defined in section 102 of such title, and any other entity in the executive branch of the Government that comes into the possession of classified information;

(3) the term "Center" means the National Declassification Center established under section 5(a);

(4) the terms "classify", "classified", and "classification" refer to the process by which information is determined to require protection from unauthorized disclosure pursuant to this Act in order to protect the national security of the United States;

(5) the terms "declassify", "declassified", and "declassification" refer to the process by which information that has been classified is determined to no longer require protection from unauthorized disclosure pursuant to this Act; and

(6) the term "national security of the United States" means the national defense or foreign relations of the United States.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of the enactment of this Act.

INSTITUTE FOR ADVANCED STUDY,
SCHOOL OF HISTORICAL STUDIES,
Princeton, NJ, March 25, 1997.

Senator DANIEL P. MOYNIHAN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR: Thank you for your note of the 7th, and for the copy of your recent talk at Georgetown, which I have read with deep appreciation.

There are several points you touched on in that talk which, were we sitting at leisure around a fireside, I would like to pursue. I cannot treat them all here. But there is one matter on which you did not specifically mention but which lies close to the subject you had in mind, and on which I am moved to say a word. It is a matter on which I have long looked for, but never found, a suitable chance to comment publicly.

It is my conviction, based on some 70 years of experience, first as a government official and then in the past 45 years as an historian, that the need by our government for secret intelligence about affairs elsewhere in the world has been vastly over-rated. I would say that something upwards of 95% of what we need to know about foreign countries could be very well obtained by the careful and competent study of perfectly legitimate sources of information open and available to us in the rich library an archival holdings of this country. Much of the remainder, if it could not be found here (and there is very little of it that could not) could easily be non-secretively elicited from similar sources abroad.

In Russia, in Stalin's time and partly thereafter, the almost psychotic preoccupation of the Communist regime with secrecy appeared to many, not unnaturally, to place a special premium on efforts to penetrate that curtain by secretive methods of our own. This led, of course, to the creation here of a vast bureaucracy dedicated to this particular purpose; and this latter, after the fashion of all great bureaucratic structures, has endured to this day, long after most of the reasons for it have disappeared. Even in the Soviet time, much of it was superfluous. A lot of what we went to such elaborate and dangerous means to obtain secretly would have been here for the having, given the requisite quiet and scholarly analysis of what already lay before us.

The attempt to elicit information by secret means has another very serious negative effect that is seldom noted. The development of clandestine sources of information in another country involves, of course, the placing and the exploitation of secret agents on the territory of that country. This naturally incites the mounting of a substantial effort of counterintelligence on the part of the respective country's government. This, in turn, causes us to respond with an equally vigorous effort of counterintelligence in order to maintain the integrity of our espionage effort. But for a variety of reasons, this competition in counterintelligence efforts tends to grow into dimensions that wholly overshadow the original effort of positive intelligence procurement that gave rise to it in the first place. It takes on aspects which cause it to be viewed as a game, played in its own rights. Unfortunately, it is a game requiring such lurid and dramatic character that it dominates the attention both of those that practice it, and of those in the press and the media who exploit it. Such is the fascination it exerts that it tends wholly to obscure, even for the general public the original reasons for it. It would be interesting to know what proportion of the energies and expenses and bureaucratic involvement of the C.I.A. is addressed to this consuming competition, and whether one ever stacks this up against the value of its almost forgotten original purposes. Do people ever reflect, one wonders, that the best way to protect against the penetration of one's secrets by others is to have the minimum of secrets to conceal?

One more point. At the bottom of the whole great effort of secret military intelligence, which has played so nefarious a part in the entire history of great-power relationships in this passing century, there has usually lain the assumption by each party that if it did not engage to the limit in that exercise the other party, working in secret, might develop a weapon so devastating that with it he could confront all others with the demand that they submit to his will "or else".

But this sort of anxiety is now greatly outdated. The nuclear competition has taught us that the more terrible the weapons available, the more suicidal becomes any conceivable actual use of them. With the recognition of the implications of this simple fact would go a large part of the motivation for our frantic efforts of secret intelligence. In this respect, too, this is really a new age. It is time we recognized it and drew the inescapable conclusions.

There may still be areas, very small areas really, in which there is a real need to penetrate someone else's curtain of secrecy. All right. But then please, without the erection of false pretenses and elaborate efforts to deceive—and without, to the extent possible—the attempt to maintain "spies" on the adversary's territory. We easily become ourselves, the sufferers from these methods of deception. For they inculcate in their authors, as well as their intended victims, unlimited cynicism, causing them to lose all realistic understanding of the interrelationship, in what they are doing, of ends and means.

Forgive me for burdening you with this outburst. I am not unloading upon my friends, in private letters, thoughts I should probably have brought forward publicly long ago. I have to consider that this is the only way I can put some of these thoughts into words before, in the case of a person 93 years of age, it becomes too late.

Warm and admiring greetings.

Very sincerely,

GEORGE KENNAN.

Mr. HELMS. I am pleased to join Senator MOYNIHAN today in introducing a bill that would for the first time place in statute the Government

system for the classification of information. To date this has been accomplished solely through Executive order.

The statute is based on the recommendations contained in the report of the Commission to Protect and Reduce Government Secrecy chaired by my colleague PAT MOYNIHAN, the senior Senator from New York. The Secrecy Commission achieved a unified report of recommendations—a feat that should not be underrated, especially in Washington.

The Commission, by law, had the twin goals of studying how to protect important Government secrets and simultaneously reducing the amount of classified documents and materials. All Commissioners began their deliberations with the premise that Government secrecy is a form of regulation that, like all regulations, should be used sparingly, and certainly never for the goal of keeping the truth from the American people. Commissioners also began the process recognizing that over-classification can actually weaken the protections of those secrets that truly are in our national interest.

All the same I am obliged to begin with a reiteration of the obvious—that the protection of true national security information remains vital to the well-being and security of the United States. The end of the cold war notwithstanding, the United States continues to face serious and long-term threats from a variety of fronts. While Communist and anti-American regimes, such as North Korea, Cuba, Iran, and Iraq, continue to wage a war of espionage against the United States, new threats have arisen as well.

Most alarming, perhaps, is the growing trend of espionage conducted not by our enemies but by American allies. Such espionage is on the rise especially against U.S. economic secrets. According to a February 1996 report by GAO, classified military information and sensitive military technologies are high priority targets for the intelligence agencies of U.S. allies.

At first blush, a push to reduce Government secrecy may seem at odds with these increasing threats. I am convinced it is not. The sheer volume of government secrets—and their cost to the taxpayers and U.S. business—is staggering. In 1996 the taxpayers spent more than $5.2 billion to protect classified information. We know all too well from our own experiences that when everything is secret nothing is secret.

Secrecy all too often then becomes a political tool used by executive branch agencies to shield information which may be politically sensitive or policies which may be unpopular with the American public. Worse yet, information may be classified to hide from public view illegal or unethical activity. On numerous occasions I, and other Members of Congress, have found the executive branch to be reluctant to share certain information, the nature of which is not truly a national secret, but which would be potentially politically embarrassing to officials in the executive branch or which would make known an illegal or indefensible policy.

I have also found that one of the largest impediments to openness is the perverse incentives of the Government bureaucracy itself in favor of classification, and the lack of accountability for those who do the actual classification. I strongly endorse the Commission's recommendation of adding individual accountability to the process by requiring original and derivative classifiers to actually identify themselves and include within the documents a justification of the decision to classify.

The only way to change a bureaucracy is to reverse the incentive to classify. A good example of how to change this lack of bureaucratic accountability is a provision contained in H.R. 3121—legislation which we approved in the Foreign Relations Committee last year that was signed into law. Previously, details on U.S. commercial arms sales to foreign governments were not made available to the public unless a citizen requested that the State Department make it public. The incentive therefore was to keep the information closely regulated. H.R. 3121 provides that all arm sales will be made public unless the President determines that the release of the information is contrary to U.S. national security interest. Although this may appear to be a small nuance, the bureaucratic incentive is changed enormously to favor openness. Shifting the burden in this way can introduce more openness into the system and force the bureaucracy to identify true national security threats.

I am convinced, however, that the single most important recommendation of our Commission that Congress should focus on is the concept of creating a life cycle for secrets. This means that all information, classified and unclassified alike, has a life span in which decisions must be made regarding creation, management, and use. This kind of rationalization would shift the burden to favor openness and reduce some of the costs associated with declassification.

I would add a note of caution to the Commission's work on declassification, however. In the course of the 2 years of its work, the Commission became very interested in the declassification of existing documents and materials. In a perfect world, if information remains relevant to true U.S. national interests it should remain classified indefinitely. Information that does not compromise U.S. interests and sources should be made public. We all realize, however, that this is a tremendously costly venture. In fact, the Commission was unable to come up with solid data on the true cost of declassification.

In this era when Congress has finally begun to grasp the essential need to reduce Government spending and balance the budget, the issue of balancing costs and benefits is an essential one. The financial costs to the American taxpayers must be balanced against the necessity of the declassification. The real lesson to take from the work of this Commission is the need to redress for the future the problems of over classification and a systematic process for declassification, so that the costs and timeliness of declassification does not pose the same economic and regulatory burdens on future generations. At the same time, it may be too costly to declassify all of the countless classified documents now in existence.

With this caveat in mind, I hope the Congress will focus on bringing government-wide rationalization to the classification process. It is an area where tough congressional oversight is long overdue.

By Mr. AKAKA (for himself, Mr. DASCHLE, Mr. INOUYE, Mr. HOLLINGS, Mr. WELLSTONE and Mr. JEFFORDS):

S. 714. A bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

REAUTHORIZATION OF THE NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM LEGISLATION

Mr. AKAKA. Mr. President, I rise to introduce a measure which permanently authorizes the Native American Veteran Housing Loan Program. I am pleased that Senators DASCHLE, INOUYE, HOLLINGS, WELLSTONE, and JEFFORDS have joined me in cosponsoring this important measure.

In 1992, I authored a bill that established a 5-year pilot program of direct home loans to assist native american veterans who reside on trust lands. This pilot program, administered by the Department of Veterans Affairs [VA], provides direct loans to native American veterans to build or purchase homes on trust lands. Previously, native American veterans who reside on trust lands were unable to qualify for VA home loan benefits. This disgraceful treatment of native American veterans was finally corrected when Congress established the native American Direct Home Loan Program.

Despite the complexities of creating a program that addresses the needs of hundreds of different tribal entities, VA has successfully entered into agreements to provide direct VA loans to members of 46 tribes and Pacific Island groups, and negotiations continue with other tribes. Since the program's inception, 127 native American veterans have been able to achieve home ownership, and none of the loans approved by the VA have been foreclosed.

Unfortunately, the authority to issue new loans under this remarkably successful program will cease on September 30, 1997. This would be tragic and devastating to a number of native American veterans who want to participate in this program. Although VA has proposed a 2-year extension for the program, it fails to address the basic reason this program exists—equity. Native American veterans who reside on trust lands should be afforded the same benefits available to other veterans. Without this program, home loan benefits to native Americans living on trust lands will cease. This is the only program available for native American veterans who live on trust lands to finance a home for themselves and their families. There are no alternatives available.

Permanent authorization of this program will ensure that native American veterans are provided equal access to services and benefits available to other veterans. I urge my colleagues to support this important legislation.

I ask unanimous consent that a copy 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. 714

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

SECTION 1. PERMANENT AUTHORITY FOR NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM.

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended by striking out subsection (c).

(b) CONFORMING AMENDMENTS.—(1) Section 3761(a) of such title is amended—

(A) by striking out "shall establish and implement a pilot program" and inserting in lieu thereof "shall carry out a pilot program"; and

(B) by striking out "shall establish and implement the pilot program" and inserting in lieu thereof "shall carry out the pilot program".

(2) Sections 3761(b) and 3762(i) of such title are each amended by striking out "pilot program" and inserting in lieu thereof "program".

(3) Section 3762 of such title is amended—

(A) in subsection (b)(1)(E), by striking out "pilot program established under this subchapter is implemented" and inserting in lieu thereof "program under this subchapter is carried out"; and

(B) in subsection (c)(1)(B), by striking out the second sentence.

(4)(A) The subchapter heading for subchapter V of chapter 37 of such title is amended by striking out "PILOT".

(B) The section heading for section 3761 of such title is amended to read as follows:

"§ 3761. Native American Veteran Housing Loan Program".

(C) The table of sections at the beginning of chapter 37 of such title is amended—

(i) in the item relating to subchapter V, by striking out "PILOT"; and

(ii) by striking out the item relating to section 3761 and inserting in lieu thereof the following new item:

"3761. Native American Veteran Housing Loan Program.".

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. BURNS, Mr. GORTON, Mr. KEMPTHORNE, and Mr. ENZI):

S. 716. A bill to establish a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving national, regional, and provincial trade-distorting differences between the countries with respect to the production, processing, and sale of cattle and beef, and for other purposes; to the Committee on Finance.

LEGISLATION TO ESTABLISH CATTLE AND BEEF COMMISSION

Mr. CRAIG. Mr. President, I rise to introduce a bill of critical importance to our Nation's cattle industry. The joint United States-Canada Commission on Cattle and Beef is designed to resolve some of the existing differences in trade practices between the two countries.

I want to thank a number of my colleagues who are joining me as original cosponsors of this legislation. The cosponsors of this bill include Senator BAUCUS, Senator BURNS, Senator GORTON, Senator KEMPTHORNE, and Senator ENZI.

As a former rancher, I have a firsthand understanding of the challenges that face the cattle industry. The prolonged down cycle is especially troubling because it affects the livelihoods of thousands of ranching families in Idaho and across the country.

These beef producers are the largest sector of Idaho and American agriculture. Over 1 million families raise over 100 million head of beef cattle every year. This contributes over $36 billion to local economies. Even with the extended cycle of low prices, direct cash receipts from the Idaho cattle industry were almost $620 million in 1995. These totals only represent direct sales; they do not capture the multiplier effect that cattle ranches have in their local economies from expenditures on labor, feed, fuel, property taxes, and other inputs.

Over the years, cattle operations have provided a decent living and good way of life in exchange for long days, hard work, and dedication. While the investment continues to be high, the returns have been low in recent years.

The problems facing the cattle industry in recent years are complex. The nature of the market dictates that stable consumption combined with increased productivity and growing herd size yield lower prices to producers. This, combined with high feed prices and limited export opportunities, has caused a near crisis.

Many Idahoans have contacted me on a number of cattle industry issues. Some suggest the Federal Government intervene in the market to help producers. However, many others have expressed fear that Federal intervention, if experience is any indication, will only complicate matters and may also create a number of unintended results. I tend to agree with the latter. Time and again, I have seen lawmakers and bureaucrats in Washington, DC, albeit well intentioned, take a difficult situation and make it worse. This does not mean that I believe Government has no role to play. I have supported and will continue to support Government involvement in areas like trade, where individual producers cannot help themselves.

This bill recognizes a number of barriers to international trade that adversely affect American beef producers. The bill is meant to elevate the importance of all trade issues and specifically address some of the pending cattle trade issues between the United States and Canada.

The United States-Canada Commission on Cattle and Beef is a measure designed to provide immediate, short-term solutions to some of the serious trade problems facing the cattle industry. Specific cattle issues that could be resolved with further discussion include animal health requirements and the availability of feed grains. The bill creates a commission composed of three people from each country along with a number of other nonvoting advisors. Within 30 days of passage, the Commission must be in place and within 6 months must issue a preliminary report on how to resolve the existing differences between United States and Canadian trade.

I know that a number of my colleagues have legislation pending in regards to the cattle market. I would comment that I see this bill as a starting point, not an ending point for cattle industry issues and I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 716

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

SECTION 1. JOINT UNITED STATES-CANADA COMMISSION ON CATTLE AND BEEF.

(a) ESTABLISHMENT.—There is established a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving, national, regional, and provincial trade-distorting differences between the United States and Canada with respect to the production, processing, and sale of cattle and beef, with particular emphasis on—

(1) animal health requirements;

(2) transportation differences;

(3) the availability of feed grains; and

(4) Other market-distorting direct and indirect subsidies.

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall be composed of—

(A) 3 members representing the United States, including—

(i) 1 member appointed by the Majority Leader of the Senate;

(ii) 1 member appointed by the Speaker of the House of Representatives; and

(iii) 1 member appointed by the Secretary of Agriculture;

(B) 3 members representing Canada, appointed by the Government of Canada; and

(C) nonvoting members appointed by the Commission to serve as advisers to the Commission, including university faculty, State veterinarians, trade experts, and other members.

(2) APPOINTMENT.—Members of the Commission shall be appointed not later than 30 days after the date of enactment of this Act.

(c) REPORT.—Not later than 180 days after the first meeting of the Commission, the Commission shall submit a report to Congress and the Government of Canada that identifies, and recommends means of resolving, differences between the United States and Canada with respect to the production, processing, and sale of cattle and beef.

By Mr. JEFFORDS (for himself, Mr. HARKIN, Mr. LOTT, Mr. KENNEDY, Mr. COATS, Mr. DODD, Mr. GREGG, Ms. MIKULSKI, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Mrs. MURRAY, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, and Mr. REED):

S. 717. A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Labor and Human Resources.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. JEFFORDS. Mr. President, today along with 16 of my colleagues, I am introducing the Individuals with Disabilities Education Act Amendments of 1997. This legislation is the product of 4 months of intensive discussion among members of the committee, the House Committee on Education and the Workforce, and officials from the U.S. Department of Education.

The process followed in developing this legislation was unprecedented and demonstrates the high priority all involved place on the importance of the education of children with disabilities, their parents, and their educators.

Many people and organizations have helped us to develop this legislation. I would like to name just a few.

First and foremost, I wish to thank the Majority Leader TRENT LOTT for his unwavering support, and, in particular for the assistance of his Chief of Staff, Dave Hoppe. It is my firm belief that without their commitment to the process that we could not have produced this bill.

I would also like to thank my colleagues Senators KENNEDY, COATS, HARKIN, and GREGG, and especially, Chairman GOODLING, Mr. CLAY and our other colleagues in the House, and Secretary Riley, and Assistant Secretary Heumann.

I also wish to especially thank Senator FRIST, who set the direction and standard that led us in our efforts to reauthorize IDEA in the last Congress.

I introduce this bill in a much different climate than the one in which Congress first addressed the issue. In 1975, responding to numerous Federal court cases, Congress passed Public Law 94–142 which guaranteed all children with disabilities a "free and appropriate public education," and promised that the Federal Government would contribute 40 percent of the costs of special education. It is 22 years later and today we are on the threshold of honoring that commitment.

Our efforts in drafting this legislation are driven by a common belief that education is our No. 1 national priority, and that meeting the needs of our children includes meeting the needs our 5.1 million children with disabilities. In this bill we address several important issues: How to increase the flow of Federal dollars to local school districts; how to expand opportunities for children with disabilities to participate and succeed in the classroom along with their nondisabled peers; and how to ensure the appropriate participation of children with disabilities in State and district-wide assessments of student progress.

I hope all of my colleagues will support this legislation when it is considered. It's importance has been demonstrated by the collaborative process in which it was developed, and the valuable group of Americans it is intended to serve.

Thank you, Mr. President.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. ROTH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes.

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 2, supra.

S. 4

At the request of Mr. ASHCROFT, the names of the Senator from Maine [Ms. SNOWE], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 124

At the request of Mr. GRAMM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 124, a bill to invest in the future of the United States by doubling the amount authorized for basic science and medical research.

S. 143

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 143, 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 a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 231

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 231, a bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes.

S. 394

At the request of Mr. HATCH, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 479

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.

S. 535

At the request of Mr. MCCAIN, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 535, 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.

S. 536

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 536, a bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes.

S. 609

At the request of Mr. KENNEDY, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of 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.

S. 685

At the request of Mr. COCHRAN, his name was added as a cosponsor of S. 685, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for an additional fiscal year.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from Washington [Mr. GORTON], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Concurrent Resolution 21, a concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

SENATE RESOLUTION 58

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 58, a resolution to state the sense of the Senate that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is essential for furthering the security interests of the United States, Japan, and the countries of the Asia-Pacific region, and that the people of Okinawa deserve recognition for their contributions toward ensuring the Treaty's implementation.

AMENDMENT NO. 59

At the request of Mr. LAUTENBERG his name was added as a cosponsor of amendment No. 59 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 76

At the request of Mr. SPECTER the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of amendment No. 76 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 100

At the request of Ms. MOSELEY-BRAUN the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of amendment No. 100 intended to be proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 131

At the request of Mr. SPECTER his name was added as a cosponsor of amendment No. 131 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 145

At the request of Mr. D'AMATO the names of the Senator from California [Mrs. FEINSTEIN], the Senator from New York [Mr. MOYNIHAN], the Senator from California [Mrs. BOXER], the Senator from Wisconsin [Mr. KOHL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Oregon [Mr. WYDEN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Ms. MIKULSKI], the Senator from Florida [Mr. MACK], the Senator from Nevada [Mr. REID], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of amendment No. 145 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

At the request of Mr. REED his name was added as a cosponsor of amendment No. 145 proposed to S. 672, supra.

AMENDMENT NO. 166

At the request of Mr. D'AMATO the names of the Senator from California [Mrs. FEINSTEIN], the Senator from New York [Mr. MOYNIHAN], and the Senator from California [Mrs. BOXER] were added as cosponsors of amendment No. 166 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 169

At the request of Mr. BOND the names of the Senator from Maryland [Mr. SARBANES], the Senator from New York [Mr. D'AMATO], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of amendment No. 169 proposed to S. 672, an original bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

SENATE RESOLUTION 85—RELATIVE TO BREAST CANCER

Mr. GREGG (for himself and Mr. SMITH of New Hampshire) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 85

Whereas individuals with breast cancer need a support system in their time of need;

Whereas breast cancer is a disease of epidemic proportions, with 43,900 individuals in the United States expected to die from breast cancer in 1997, and 1 out of every 8 women in the United States expected to develop breast cancer in her lifetime;

Whereas the millions of family members, including spouses, children, parents, siblings, and other loved ones of person's with breast cancer can offer strong emotional support to each other in addition to the support they offer to patients and survivors dealing with their challenges;

Whereas it is important that the United States as a whole support the family members and other loved ones of individuals with breast cancer in addition to supporting the individual with breast cancer; and

Whereas 1997 brings the 25th anniversary of the National Cancer Program providing research, training, health information dissemination, and other programs with respect to the cause, diagnosis, prevention and treatment of cancer, rehabilitation from cancer, and the continuing care of cancer patients and their families: Now, therefore, be it

Resolved, That it is the sense of the Senate that an environment be encouraged where—

(1) the family members and loved ones of individuals with breast cancer can support each other in addition to the individual with breast cancer; and

(2) everything possible should be done to support both the individuals with breast cancer as well as the family and loved ones of individuals with breast cancer through public awareness and education.

Mr. GREGG. Mr. President, I rise today to submit, for myself and Senator SMITH of New Hampshire, a Senate resolution expressing the sense of the Senate that individuals afflicted with breast cancer should not be alone in their fight against the terrifying disease. With Mother's Day coming up this Sunday, May 11, it seems especially appropriate that we recognize the extent to which our society is affected by this disease, as well as the importance of supporting breast cancer patients and their family members and friends who are all meeting the challenges of this disease at the side of their loved one.

In 1997, it is estimated that 1 out of every 8 women will develop breast cancer in her lifetime and nearly 44,000 individuals will die of the disease this year. In New Hampshire alone there are 12,700 women living with breast cancer, and 230 women are expected to die of this terrible disease in 1997. With each of these individuals come loved ones who are also impacted. It is imperative to have a strong support system not only for individuals with breast cancer but for the family and friends who make up their support system. Our recognition of the millions of people who are dealing with similar struggles can help both the breast cancer patients and their loved ones to stay strong during their times of need.

With this resolution, we hope to encourage an environment in New Hampshire, and across the Nation, where support is provided to both the individuals with breast cancer as well as their family and friends through public awareness and education, and where family members and loved ones of individuals with breast cancer support each other in along with the individual facing breast cancer.

AMENDMENTS SUBMITTED SUBMITTED

THE GOVERNMENT SHUTDOWN PREVENTION ACT SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

CONRAD AMENDMENT NO. 175

(Ordered to lie on the table.)

Mr. CONRAD submitted an amendment intended to be proposed by him to the bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes; as follows:

In lieu of the matter to be inserted by said amendment, insert: On page 31, line 22, after the word "facilities," insert the following: ": *Provided further*, That of the funds made available under this heading, up to $20,000,000 may be transferred to the Disaster Assistance Direct Loan Program for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided further*, That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $21,000,000 under section 417 of the Stafford Act: *Provided further*, That any such transfer of funds shall be made only upon certification by the Director of the Federal Emergency Management Agency that all requirements of section 417 of the Stafford Act will be complied with: *Provided further*, That the entire amount of the preceding proviso shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress".

DORGAN AMENDMENT NO. 176

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill, S. 672, supra; as follows:

At the appropriate place, insert the following: "*Provided further*, That, notwithstanding the provisions of section 903(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3243(a)(2)), the Secretary of Commerce may make a grant to restore electrical and gas service to areas damaged by flooding and other natural disasters: *Provided further*, That a project funded by a grant made under the preceding proviso shall, for purposes of section 704(e)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3214(e)(1)), be considered to be an authorized project."

HUTCHISON AMENDMENT NO. 177

Mrs. HUTCHISON proposed an amendment to the bill, S. 672, supra; as follows:

Strike out "September 30, 1997" and insert in lieu thereof "June 30, 1998."

HUTCHISON AMENDMENTS NOS. 178–179

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted two amendments intended to be proposed by her to the bill, S. 672, supra; as follows:

AMENDMENT NO. 178

Strike out "September 30, 1997" and insert in lieu thereof "June 30, 1998."

AMENDMENT NO. 179

At the appropriate place, insert the following:

SEC. . AGREEMENTS UNDER THE ENDANGERED SPECIES ACT OF 1973.

(a) LISTING.—Section 4(b)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(1)) is amended by adding at the end the following:

"(C) AGREEMENTS.—In determining whether a species is an endangered species or a threatened species, the Secretary shall take into full consideration any—

"(i) conservation agreement;

"(ii) pre-listing agreement;

"(iii) memorandum of agreement;

"(iv) memorandum of understanding; or

"(v) any other agreement designed to promote the conservation of any species;

agreed to by the Secretary, any other Federal agency, State, State agency, political subdivision of a State, or other person, including the reasonably expected future beneficial effects to the species of every provision of the agreement that has been implemented or is reasonably likely to be implemented.".

(b) RECOVERY PLANS.—Section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)) is amended by adding at the end the following:

"(6) AGREEMENTS.—The Secretary shall—

"(A) give the highest priority to development and implementation of a recovery plan for a species for which the Secretary has entered into a—

"(i) conservation agreement;

"(ii) pre-listing agreement;

"(iii) memorandum of agreement;

"(iv) memorandum of understanding; or

"(v) any other agreement designed to promote the conservation of any species;

(whether before or after the listing of the species as endangered or threatened) with any other Federal agency, State, State agency, political subdivision of a State, or other person; and

"(B) ensure that the commitments made by the Secretary in the agreement are fulfilled before funds are expended on the development and implementation of any other recovery plan.".

LUGAR AMENDMENTS NOS. 180–81

(Ordered to lie on the table.)

Mr. LUGAR submitted two amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 180

Strike all after **"SEC. ——"** and insert the following: **COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture 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 maximum extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transactions separately.

(b) CONFIDENTIALITY.—All information provided to, or acquired by the Secretary under subsection (a) 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.

(c) REPORT.—Not later than 150 days after the date on enactment of this Act, the Secretary shall report to the Committee on Agriculture, and the Committee on Appropriations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations, of the Senate, on the rate of reporting compliance by cheese manufacturers with respect to the information collected under subsection (a). At the time of the report, the Secretary may submit legislative recommendations to improve the rate of reporting compliance.

(d) TERMINATION OF EFFECTIVENESS.—The authority provided by subsection (a) terminates effective April 5, 1999.

AMENDMENT NO. 181

"Strike all after **"SEC. ——"** and insert the following: **COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture 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 maximum extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transactions separately.

(b) CONFIDENTIALITY.—All information provided to, or acquired by, the Secretary under subsection (a) 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.

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary shall report to the Committee on Agriculture, and the Committee on Appropriations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations, of the Senate, on the rate of reporting compliance by cheese manufacturers with respect to the information collected under subsection (a). At the time of the report, the Secretary may submit legislative recommendations to improve the rate of reporting compliance.

(d) TERMINATION OF EFFECTIVENESS.—The authority provided by subsection (a) terminates effective April 5, 1999.

CRAIG AMENDMENTS NOS. 182–195

(Ordered to lie on the table.)

Mr. CRAIG submitted 14 amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 182

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

AMENDMENT NO. 183

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

AMENDMENT NO. 184

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

AMENDMENT NO. 185

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

AMENDMENT NO. 186

In lieu of the matter proposed to be inserted, insert the following:

SEC. 331. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 and 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

AMENDMENT NO. 187

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that

consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

AMENDMENT NO. 188

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997;

"(B) to address a catastrophic natural event that occurred during 1996 or 1997; or

"(C) to comply with a Federal, State, or local public health or safety requirement that was violated during 1996 or 1997 as a result of a threat or event referred to in subparagraph (A) or (B).".

AMENDMENT NO. 189

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

AMENDMENT NO. 190

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

AMENDMENT NO. 191

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

AMENDMENT NO. 192

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

AMENDMENT NO. 193

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(A) CONSULATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

"(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

AMENDMENT NO. 194

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

AMENDMENT NO. 195

In lieu of the matter proposed to be inserted, insert the following:

SEC. 311. COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 IN CONNECTION WITH FLOOD CONTROL PROJECTS.

(a) CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following:

"(5) FLOOD CONTROL PROJECTS.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL PROJECTS.—For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a Federal or non-Federal flood control project, facility, or structure—

"(A) to address a critical, imminent threat to public health or safety that arose during 1996 or 1997; or

"(B) to address a catastrophic natural event that occurred during 1996 or 1997.".

GORTON AMENDMENT NO. 196

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following on page 21, after line 15:

"For an additional amount for 'Resource Management', $5,000,000, to remain available until September 30, 1999, for payments to private landowners for the voluntary use of private land to store water in restored wetlands."

STEVENS AMENDMENTS NOS. 197–207

(Ordered to lie on the table.)

Mr. STEVENS submitted 11 amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 197

At the end of the amendment add the following: "*Provided further*, That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208."

AMENDMENT NO. 198

At the end of the amendment add the following: "*Provided further*, That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208."

AMENDMENT NO. 199

At the end of the amendment add the following: "*Provided further*, That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208."

AMENDMENT NO. 200

At the end of the amendment add the following: "*Provided further*, That additional amounts made available may not be obligated pursuant to the reprogamming approval procedure specified in section 605 of Public Law 104–208."

AMENDMENT NO. 210

AT the end of the amendment add the following: "*Provided further*, That additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208.

AMENDMENT NO. 202

At the end of the amendment add the following: "*Provided further*, That additional amounts made available may not be obligated pursuant to the reprogamming approval procedure specified in section 605 of Public Law 104–208."

AMENDMENT NO. 203

At the end of the amendment add the following: "*Provided further*, That additional amounts made available may not be obligated pursuant to the reprogamming approval procedure specified in section 605 of Public Law 104–208."

AMENDMENT NO. 204

At the end of the amendment add the following: "*Provided further*, that additional amounts made available may not be obligated pursuant to the reprogramming approval procedure specified in section 605 of Public Law 104–208."

AMENDMENT NO. 205

In lieu of the matter proposed insert the following:

SEC. . None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the use of sampling or any other statistical method [(including any statistical adjustment)] in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the several States that cannot be reversed by future congressional action.

AMENDMENT NO. 206

In lieu of the matter proposed insert the following:

SEC. . None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the use of sampling or any other statistical method [(including any statistical adjustment)] in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the several States that cannot be reversed by future congressional action.

AMENDMENT NO. 207

In lieu of the matter proposed insert the following:

SEC. . None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the use of sampling or any other statistical method [(including any statistical adjustment)] in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the several States that cannot be reversed by future congressional action.

STEVENS AMENDMENT NO. 208

Mr. STEVENS proposed an amendment to the bill, S. 672, supra; as follows:

At the appropriate place in the bill insert the following:

None of the funds made available in the Foreign Operations, Export Financing, and Related Programs, 1997, (as contained in Public Law 104–208) may be made available for assistance to Uruguay unless the Secretary of State certifies to the Committees on Appropriations that all cases involving seizure of U.S. business assets have been resolved.

GRAMS AMENDMENT NO. 209

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 78 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS; TERMINATION OF CURRENT MILK MARKETING ORDERS AND MILK PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended to read as follows:

"SEC. 141. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

"(a) DEFINITION OF MILK PRODUCER.—In this section:

"(1) IN GENERAL.—The term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous States on September 15, 1996, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use.

"(2) INCLUSIONS.—The term 'milk producer' includes a person considered to be a producer-handler that satisfies the requirements of paragraph (1).

"(b) MARKET TRANSITION CONTRACTS AUTHORIZED.—The Secretary shall offer to enter into a contract (referred to in this section as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for payments under the contract, to comply with applicable—

"(1) conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

"(2) wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

"(c) TIME FOR CONTRACTING; TERM.—

"(1) TIME FOR CONTRACTING.—The Secretary shall begin to offer to enter into market transition contracts as soon as practicable after the date of enactment of this paragraph.

"(2) TERM.—The term of each market transition contract shall extend through December 31, 2001.

"(d) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for calendar year 1997.

"(e) TIME FOR PAYMENTS.—

"(1) INITIAL PAYMENT.—The Secretary shall make the payment for calendar year 1997 under a market transition contract as soon as practicable after the date of enactment of the Supplemental Appropriations and Rescissions Act of 1997.

"(2) SUBSEQUENT PAYMENTS.—The Secretary shall make subsequent payments under a market transition contract not later than January 15 of each of calendar years 1998 through 2002.

"(f) PAYMENT RATE.—The Secretary shall calculate payments under a market transition contract for a calendar year based on the maximum rate that the Secretary determines may be paid using savings derived for the calendar year from the termination of Federal milk marketing orders, and the milk price support program, by amendments made by the Supplemental Appropriations and Rescissions Act of 1997.

"(g) CONTRACT PAYMENTS BASED ON PRODUCTION HISTORY.—

"(1) IN GENERAL.—

"(A) HISTORIC PRODUCTION.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary.

"(B) HUNDREDWEIGHTS.—Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

"(2) PRODUCERS WITH 3 OR MORE YEARS OF PRODUCTION.—In the case of a milk producer that has been engaged in the production of milk for at least 3 calendar years during the period from 1992 through 1996, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the 3 years of the period in which the largest quantities of milk were marketed by the milk producer.

"(3) PRODUCERS WITH FEWER YEARS OF PRODUCTION.—

"(A) IN GENERAL.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer a historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production.

"(B) ENDING DATE.—The Secretary shall not consider months of production after December 31, 1996.

"(h) CALCULATION OF PAYMENT AMOUNT.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

"(1) the payment rate in effect for that fiscal year under subsection (f); and

"(2) the historic annual milk production for the milk producer determined under subsection (g).

"(i) ASSIGNMENT OF PAYMENTS.—

"(1) IN GENERAL.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer.

"(2) NOTICE.—The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

"(j) EFFECT OF VIOLATION.—

"(1) TERMINATION OF CONTRACT.—

"(A) IN GENERAL.—If a milk producer subject to a market transition contract violates any requirement described in subsection (b), the Secretary may terminate the producer's market transition contract.

"(B) FORFEITURE AND REFUND.—On the termination, the milk producer shall—

"(i) forfeit all rights to receive future payments under the contract; and

"(ii) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary.

"(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract to—

"(A) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary; or

"(B) accept an adjustment in the amount of future payments otherwise required under the contract.

"(k) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.".

(b) TERMINATION OF MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(A) in the first sentence of paragraph (2)—

(i) in subparagraph (A), by striking "Milk, fruits" and inserting "Fruits"; and

(ii) in subparagraph (B), by inserting "milk," after "honey,"; and

(B) by striking paragraphs (5) and (18).

(2) CONFORMING AMENDMENTS.—

(A) Section 2(3) of the Agricultural Adjustment Act (7 U.S.C. 602(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking ", other than milk and its products,".

(B) Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) in paragraph (6), by striking ", other than milk and its products,";

(ii) in paragraph (7)(B), by striking "(except for milk and cream to be sold for consumption in fluid form)";

(iii) in paragraph (11)(B), by striking "Except in the case of milk and its products, orders" and inserting "Orders";

(iv) in paragraph (13)(A), by striking ", except to a retailer in his capacity as a retailer of milk and its products"; and

(v) in the first sentence of paragraph (17), by striking the second proviso.

(C) Section 8d(2) of the Agricultural Adjustment Act (7 U.S.C. 608d(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the second sentence.

(D) Section 10(b)(2) of the Agricultural Adjustment Act (7 U.S.C. 610(b)(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) by striking clause (i);

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(iii) in the first sentence of clause (i) (as so redesignated), by striking "other commodity" and inserting "commodity".

(E) Section 11 of the Agricultural Adjustment Act (7 U.S.C. 611), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking "and milk, and its products,".

(F) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103-111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date that is 1 year after the date of enactment of this Act.

GRAMS AMENDMENT NO. 210

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 77 proposed by

Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS; TERMINATION OF CURRENT MILK MARKETING ORDERS AND MILK PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended to read as follows:

"SEC. 141. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

"(a) DEFINITION OF MILK PRODUCER.—In this section:

"(1) IN GENERAL.—The term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous States on September 15, 1996, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use.

"(2) INCLUSIONS.—The term 'milk producer' includes a person considered to be a producer-handler that satisfies the requirements of paragraph (1).

"(b) MARKET TRANSITION CONTRACTS AUTHORIZED.—The Secretary shall offer to enter into a contract (referred to in this section as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for payments under the contract, to comply with applicable—

"(1) conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

"(2) wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

"(c) TIME FOR CONTRACTING; TERM.—

"(1) TIME FOR CONTRACTING.—The Secretary shall begin to offer to enter into market transition contracts as soon as practicable after the date of enactment of this paragraph.

"(2) TERM.—The term of each market transition contract shall extend through December 31, 2001.

"(d) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for calendar year 1997.

"(e) TIME FOR PAYMENTS.—

"(1) INITIAL PAYMENT.—The Secretary shall make the payment for calendar year 1997 under a market transition contract as soon as practicable after the date of enactment of the Supplemental Appropriations and Rescissions Act of 1997.

"(2) SUBSEQUENT PAYMENTS.—The Secretary shall make subsequent payments under a market transition contract not later than January 15 of each of calendar years 1998 through 2002.

"(f) PAYMENT RATE.—The Secretary shall calculate payments under a market transition contract for a calendar year based on the maximum rate that the Secretary determines may be paid using savings derived for the calendar year from the termination of Federal milk marketing orders, and the milk price support program, by amendments made by the Supplemental Appropriations and Rescissions Act of 1997.

"(g) CONTRACT PAYMENTS BASED ON PRODUCTION HISTORY.—

"(1) IN GENERAL.—

"(A) HISTORIC PRODUCTION.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary.

"(B) HUNDREDWEIGHTS.—Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

"(2) PRODUCERS WITH 3 OR MORE YEARS OF PRODUCTION.—In the case of a milk producer that has been engaged in the production of milk for at least 3 calendar years during the period from 1992 through 1996, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the 3 years of the period in which the largest quantities of milk were marketed by the milk producer.

"(3) PRODUCERS WITH FEWER YEARS OF PRODUCTION.—

"(A) IN GENERAL.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer a historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production.

"(B) ENDING DATE.—The Secretary shall not consider months of production after December 31, 1996.

"(h) CALCULATION OF PAYMENT AMOUNT.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

"(1) the payment rate in effect for that fiscal year under subsection (f); and

"(2) the historic annual milk production for the milk producer determined under subsection (g).

"(i) ASSIGNMENT OF PAYMENTS.—

"(1) IN GENERAL.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer.

"(2) NOTICE.—The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

"(j) EFFECT OF VIOLATION.—

"(1) TERMINATION OF CONTRACT.—

"(A) IN GENERAL.—If a milk producer subject to a market transition contract violates any requirement described in subsection (b), the Secretary may terminate the producer's market transition contract.

"(B) FORFEITURE AND REFUND.—On the termination, the milk producer shall—

"(i) forfeit all rights to receive future payments under the contract; and

"(ii) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary.

"(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract to—

"(A) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary; or

"(B) accept an adjustment in the amount of future payments otherwise required under the contract.

"(k) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.".

(b) TERMINATION OF MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(A) in the first sentence of paragraph (2)—

(i) in subparagraph (A), by striking "Milk, fruits" and inserting "Fruits"; and

(ii) in subparagraph (B), by inserting "milk," after "honey,"; and

(B) by striking paragraphs (5) and (18).

(2) CONFORMING AMENDMENTS.—

(A) Section 2(3) of the Agricultural Adjustment Act (7 U.S.C. 602(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking ", other than milk and its products,".

(B) Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) in paragraph (6), by striking ", other than milk and its products,";

(ii) in paragraph (7)(B), by striking "(except for milk and cream to be sold for consumption in fluid form)";

(iii) in paragraph (11)(B), by striking "Except in the case of milk and its products, orders" and inserting "Orders";

(iv) in paragraph (13)(A), by striking ", except to a retailer in his capacity as a retailer of milk and its products"; and

(v) in the first sentence of paragraph (17), by striking the second proviso.

(C) Section 8d(2) of the Agricultural Adjustment Act (7 U.S.C. 608d(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the second sentence.

(D) Section 10(b)(2) of the Agricultural Adjustment Act (7 U.S.C. 610(b)(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) by striking clause (i);

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(iii) in the first sentence of clause (i) (as so redesignated), by striking "other commodity" and inserting "commodity".

(E) Section 11 of the Agricultural Adjustment Act (7 U.S.C. 611), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking "and milk, and its products,".

(F) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103-111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date that is 1 year after the date of enactment of this Act.

GRAMS AMENDMENT NO. 211

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 76 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS; TERMINATION OF CURRENT MILK MARKETING ORDERS AND MILK PRICE SUPPORT PROGRAM.

(a) IN GENERAL.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended to read as follows:

"SEC. 141. MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

"(a) DEFINITION OF MILK PRODUCER.—In this section:

"(1) IN GENERAL.—The term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous States on September 15, 1996, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use.

"(2) INCLUSIONS.—The term 'milk producer' includes a person considered to be a producer-handler that satisfies the requirements of paragraph (1).

"(b) MARKET TRANSITION CONTRACTS AUTHORIZED.—The Secretary shall offer to enter into a contract (referred to in this section as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for payments under the contract, to comply with applicable—

"(1) conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

"(2) wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

"(c) TIME FOR CONTRACTING; TERM.—

"(1) TIME FOR CONTRACTING.—The Secretary shall begin to offer to enter into market transition contracts as soon as practicable after the date of enactment of this paragraph.

"(2) TERM.—The term of each market transition contract shall extend through December 31, 2001.

"(d) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for calendar year 1997.

"(e) TIME FOR PAYMENTS.—

"(1) INITIAL PAYMENT.—The Secretary shall make the payment for calendar year 1997 under a market transition contract as soon as practicable after the date of enactment of the Supplemental Appropriations and Rescissions Act of 1997.

"(2) SUBSEQUENT PAYMENTS.—The Secretary shall make subsequent payments under a market transition contract not later than January 15 of each of calendar years 1998 through 2002.

"(f) PAYMENT RATE.—The Secretary shall calculate payments under a market transition contract for a calendar year based on the maximum rate that the Secretary determines may be paid using savings derived for the calendar year from the termination of Federal milk marketing orders, and the milk price support program, by amendments made by the Supplemental Appropriations and Rescissions Act of 1997.

"(g) CONTRACT PAYMENTS BASED ON PRODUCTION HISTORY.—

"(1) IN GENERAL.—

"(A) HISTORIC PRODUCTION.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary.

"(B) HUNDREDWEIGHTS.—Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

"(2) PRODUCERS WITH 3 OR MORE YEARS OF PRODUCTION.—In the case of a milk producer that has been engaged in the production of milk for at least 3 calendar years during the period from 1992 through 1996, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the 3 years of the period in which the largest quantities of milk were marketed by the milk producer.

"(3) PRODUCERS WITH FEWER YEARS OF PRODUCTION.—

"(A) IN GENERAL.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer a historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production.

"(B) ENDING DATE.—The Secretary shall not consider months of production after December 31, 1996.

"(h) CALCULATION OF PAYMENT AMOUNT.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

"(1) the payment rate in effect for that fiscal year under subsection (f); and

"(2) the historic annual milk production for the milk producer determined under subsection (g).

"(i) ASSIGNMENT OF PAYMENTS.—

"(1) IN GENERAL.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer.

"(2) NOTICE.—The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

"(j) EFFECT OF VIOLATION.—

"(1) TERMINATION OF CONTRACT.—

"(A) IN GENERAL.—If a milk producer subject to a market transition contract violates any requirement described in subsection (b), the Secretary may terminate the producer's market transition contract.

"(B) FORFEITURE AND REFUND.—On the termination, the milk producer shall—

"(i) forfeit all rights to receive future payments under the contract; and

"(ii) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary.

"(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract to—

"(A) refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest on the payment as determined by the Secretary; or

"(B) accept an adjustment in the amount of future payments otherwise required under the contract.

"(k) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.".

(b) TERMINATION OF MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(A) in the first sentence of paragraph (2)—

(i) in subparagraph (A), by striking "Milk, fruits" and inserting "Fruits"; and

(ii) in subparagraph (B), by inserting "milk," after "honey,"; and

(B) by striking paragraphs (5) and (18).

(2) CONFORMING AMENDMENTS.—

(A) Section 2(3) of the Agricultural Adjustment Act (7 U.S.C. 602(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking ", other than milk and its products,".

(B) Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) in paragraph (6), by striking ", other than milk and its products,";

(ii) in paragraph (7)(B), by striking "(except for milk and cream to be sold for consumption in fluid form)";

(iii) in paragraph (11)(B), by striking "Except in the case of milk and its products, orders" and inserting "Orders";

(iv) in paragraph (13)(A), by striking ", except to a retailer in his capacity as a retailer of milk and its products"; and

(v) in the first sentence of paragraph (17), by striking the second proviso.

(C) Section 8d(2) of the Agricultural Adjustment Act (7 U.S.C. 608d(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the second sentence.

(D) Section 10(b)(2) of the Agricultural Adjustment Act (7 U.S.C. 610(b)(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(i) by striking clause (i);

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(iii) in the first sentence of clause (i) (as so redesignated), by striking "other commodity" and inserting "commodity".

(E) Section 11 of the Agricultural Adjustment Act (7 U.S.C. 611), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking "and milk, and its products,".

(F) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103-111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date that is 1 year after the date of enactment of this Act.

GRAMS AMENDMENT NO. 212

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 78 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REPEAL OF CONSENT OF CONGRESS FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is repealed.

GRAMS AMENDMENT NO. 213

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 76 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REPEAL OF CONSENT OF CONGRESS FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is repealed.

GRAMS AMENDMENT NO. 214

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the amendment No. 77 proposed by Mr. SPECTER to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REPEAL OF CONSENT OF CONGRESS FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is repealed.

McCAIN AMENDMENT NO. 215

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the amendment No. 113 proposed by Mr. McCAIN to the bill, S. 672, supra; as follows:

On page 2, line 14, delete the period at the end of the sentence and insert in lieu thereof the following: ". The Secretary of the Interior may apply the policy referred to in this section to all counties nationwide that were declared Federal Disaster Areas at any time prior to 1997.".

D'AMATO (AND OTHERS) AMENDMENT NO. 216

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. DOMENICI, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. INOUYE, Mr. MURKOWSKI, Mr. DODD, Mr. KERREY, Mr. HATCH, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. FORD) submitted an amendment intended to be proposed by them to the bill, S. 672, supra; as follows:

At the end of the pending amendment, insert the following:

TITLE ___—WOMEN'S HEALTH AND CANCER RIGHTS

SEC. ___1. SHORT TITLE.

This title may be cited as the "Women's Health and Cancer Rights Act of 1997".

SEC. ___2. FINDINGS.

Congress finds that—

(1) the offering and operation of health plans affect commerce among the States;

(2) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(3) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

SEC. ___3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 702(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 603 of the Newborns' and Mothers' Health Protection Act of 1996 and section 702 of the Mental Health Parity Act of 1996, is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as added by section 604(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 703(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

"SEC. 2706. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTION SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to group health plans for plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Subpart 3 of part B of title XXVII of the Public Health Service Act (as added by section 605(a) of the Newborn's and Mother's Health Protection Act of 1996) is amended by adding at the end the following new section:

"SEC. 2752. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.

"The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

SEC. ___6. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 (relating to group health plan portability, access, and renewability requirements) is amended by redesignating sections 9804, 9805, and 9806 as sections 9805, 9806, and 9807, respectively, and by inserting after section 9803 the following new section:

"SEC. 9804. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

"(1) in the next mailing made by the plan to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES.—A group health plan may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (e).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 9801(c)(1), 9805(b) (as redesignated by subsection (a)), 9805(c) (as so redesignated), 4980D(c)(3)(B)(i)(I), 4980D(d)(3), and 4980D(f)(1) of such Code are each amended by striking "9805" each place it appears and inserting "9806".

(2) The heading for subtitle K of such Code is amended to read as follows:

"Subtitle K—Group Health Plan Portability, Access, Renewability, and Other Requirements".

(3) The heading for chapter 100 of such Code is amended to read as follows:

"CHAPTER 100—GROUP HEALTH PLAN PORTABILITY, ACCESS, RENEWABILITY, AND OTHER REQUIREMENTS".

(4) Section 4980D(a) of such Code is amended by striking "and renewability" and inserting "renewability, and other".

(c) CLERICAL AMENDMENTS.—

(1) The table of contents for chapter 100 of such Code is amended by redesignating the items relating to sections 9804, 9805, and 9806 as items relating to sections 9805, 9806, and 9807, and by inserting after the item relating to section 9803 the following new item:

"Sec. 9804. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.".

(2) The item relating to subtitle K in the table of subtitles for such Code is amended by striking "and renewability" and inserting "renewability, and other".

(3) The item relating to chapter 100 in the table of chapters for subtitle K of such Code is amended by striking "and renewability" and inserting "renewability, and other".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

HOLLINGS AMENDMENTS NOS. 217–218

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, S. 672, supra; as follows:

AMENDMENT NO. 217

Strike all after the section number in the pending amendment and insert the following:

None of the funds available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to plan or otherwise prepare for the conduct of the year 2000 decennial census in a manner that is not the most cost effective and in a manner that will not provide for greater accuracy in estimating population than the year 1990 census.

AMENDMENT NO. 218

Strike all after the section number in the pending amendment and insert the following:

None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to make plans irreversible plans or preparation for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the States.

FEINGOLD AMENDMENT NO. 219

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to amendment No. 84 submitted by him to the bill, S. 672, supra; as follows:

On page 4, line 6, strike out "September 30, 1997" and insert in lieu thereof "June 30, 1998".

FEINGOLD AMENDMENT NO. 220

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to amendment No. 83 submitted by him to the bill, S. 672, supra; as follows:

Strike out "September 30, 1997" and insert in lieu thereof "June 30, 1998".

FEINGOLD AMENDMENT NO. 221

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to amendment No. 76 submitted by Mr. SPECTER to the bill, S. 672, supra; as follows:

On page 3, line 1, strike "The authority provided by subsection" and insert in lieu thereof "Subsection".

REID (AND BAUCUS) AMENDMENTS NOS. 222–223

(Ordered to lie on the table.)

Mr. REID (for himself and Mr. BAUCUS) submitted two amendments intended to be proposed by them to the bill, S. 672, supra; as follows:

AMENDMENT NO. 222

Beginning on page 50, strike line 15 and all that follows through page 51 and insert the following:

The policy issued on February 19, 1997, by the United States Fish and Wildlife Service implementing emergency provisions of the Endangered Species Act and applying to 46 California counties that were declared Federal disaster areas shall—

(1) apply to all counties nationwide heretofore or hereafter declared Federal disaster areas at any time during 1997; or

(2) apply to repair activities on flood control facilities in response to an imminent threat to human lives and property; and

(3) remain in effect for the purposes of paragraphs (1) and (2) until the Assistant Secretary of the Army for Civil Works determines that 100 percent of emergency repairs have been completed, but shall not remain in effect later than December 31, 1998.

AMENDMENT NO. 223

Beginning on page 50, strike line 15 and all that follows through page 51 and insert the following:

The policy issued on February 19, 1997, by the United States Fish and Wildlife Service implementing emergency provisions of the Endangered Species Act and applying to 46 California counties that were declared Federal disaster areas shall apply to all counties nationwide heretofore or hereafter declared Federal disaster areas at any time during 1997 and shall apply to repair activities on flood control facilities in response to an imminent threat to human lives and property and shall remain in effect until the Assistant Secretary of the Army for Civil Works determines that 100 percent of emergency repairs have been completed, but shall not remain in effect later than December 31, 1998.

STEVENS (AND DOMENICI) AMENDMENT NO. 224

Mr. STEVENS (for himself and Mr. DOMENICI) proposed an amendment to amendment No. 131 submitted by Mr. BIDEN to the bill, S. 672, supra; as follows:

Strike line 5 of amendment #131 and all thereafter and insert the following:

The Secretary of the Interior or his designee shall serve as the alternate member of the Susquehana River Basin Commission appointed under the Susquehana River Basin Compact (Public Law 91–575) and the alternate member of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87–328).

STEVENS (AND DOMENICI) AMENDMENT NO. 225

Mr. STEVENS (for himself and Mr. DOMENICI) proposed an amendment to amendment No. 70 submitted by Mr. JOHNSON to the bill, S. 672, supra; as follows:

On line 7 of amendment #70, following "(Public Law 99–662; 100 Stat. 4128)", insert the following:

If the Secretary of the Army determines that the need for such restoration and improvements constitutes an emergency.

STEVENS (AND DOMENICI) AMENDMENT NO. 226

(Ordered to lie on the table.)

Mr. STEVENS (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to amendment No. 132 submitted by Mr. BIDEN to the bill, S. 672, supra; as follows:

Strike line 5 of amendment #132 and all thereafter and insert the following:

The Secretary of the Interior or his designee shall serve as the alternate member of the Susquehana River Basin Commission appointed under the Susquehana River Basin Compact (Public Law 91–575) and the alternate member of the Delaware River Basin Commission appointed under the Delaware River Basin Compact (Public Law 87–328).

HOLLINGS AMENDMENT NO. 227

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to amendment No. 79 submitted by Mr. COATS to the bill, S. 672, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . CHILDREN'S VIOLENCE PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Children's Protection from Violent Programming Act".

(b) FINDINGS.—The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Broadcast television, cable television, and video programming are—

(A) uniquely pervasive presences in the lives of all American children; and

(B) are readily accessible to all American children.

(3) Violent video programming influences children, as does indecent programming.

(4) There is empirical evidence that children exposed to violent video programming at a young age have a higher tendency to engage in violent and aggressive behavior later in life than those children not so exposed.

(5) Children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior and therefore to imitate such behavior.

(6) Children exposed to violent video programming have an increased fear of becoming a victim of violence, resulting in increased self-protective behaviors and increased mistrust of others.

(7) There is a compelling governmental interest in limiting the negative influences of violent video programming on children.

(8) There is a compelling governmental interest in channeling programming with violent content to periods of the day when children are not likely to comprise a substantial portion of the television audience.

(9) Age-based ratings systems do not allow parents to block programming based solely on violent content thereby rendering ineffective any technology-based blocking mechanism designed to limit violent video programming.

(10) If programming is not rated specifically for violent content and therefore cannot be blocked solely on the basis of its violent content, then restricting the hours when violent video programming is shown is the least restrictive and most narrowly tailored means to achieve a compelling governmental interest.

(11) Studies show that warning labels based on age restrictions tend to encourage children's desire to watch restricted programming.

(12) Technology-based solutions may be helpful in protecting some children, but may not be effective in achieving the compelling governmental interest in protecting all children from violent programming when parents are only able to block programming based on the age of the child and not on the violent content of the programming.

(13) Absent the ability to block programming based specifically on the violent content of the programming, the channeling of violent programming is the least restrictive means to limit unsupervised children from the harmful influences of violent programming.

(14) Restricting the hours when violent programming can be shown protects the interests of children whose parents are unavailable, unable to supervise their children's viewing behavior, do not have the benefit of technology-based solutions, or unable to afford the costs of technology-based solutions.

(c) UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING.—Title VII of the Communications Act of 1934 (47 U.S.C. 701 et seq.) is amended by adding at the end the following:

"SEC. 718. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING NOT SPECIFICALLY BLOCKABLE BY ELECTRONIC MEANS.

"(a) UNLAWFUL DISTRIBUTION.—It shall be unlawful for any person to distribute to the public any violent video programming not blockable by electronic means specifically on the basis of its violent content during hours when children are reasonably likely to comprise a substantial portion of the audience.

"(b) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that proceeding not later than 9 months after the date of enactment of the Children's Protection from Violent Programming Act. As part of that proceeding, the Commission—

"(1) may exempt from the prohibition under subsection (a) programming (including news programs and sporting events) whose distribution does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 551(a) of the Telecommunications Act of 1996;

"(2) shall exempt premium and pay-per-view cable programming; and

"(3) shall define the term 'hours when children are reasonably likely to comprise a substantial portion of the audience' and the term 'violent video programming'.

"(c) REPEAT VIOLATIONS.—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, immediately revoke any license issued to that person under this Act.

"(d) CONSIDERATION OF VIOLATIONS IN LICENSE RENEWALS.—The Commission shall consider, among the elements in its review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) BLOCKABLE BY ELECTRONIC MEANS.—The term 'blockable by electronic means' means blockable by the feature described in section 303(x).

"(2) DISTRIBUTE.—The term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite.".

(d) ASSESSMENT OF EFFECTIVENESS.—

(1) REPORT.—The Federal Communications Commission shall—

(A) assess the effectiveness of measures undertaken under section 718 of the Communications Act of 1934 (47 U.S.C. 718) and under subsections (w) and (x) of section 303 of that Act (47 U.S.C. 303(w) and (x)) in accomplishing the purposes for which they were enacted; and

(B) report its findings to the Committee on Commerce, Science, and Transportation of the United States Senate and the Committee on Commerce of the United States House of Representatives,

within 18 months after the date on which the regulations promulgated under section 718 of the Communications Act of 1934 (as added by subsection (c) of this section) take effect, and thereafter as part of the biennial review of regulations required by section 11 of that Act (47 U.S.C. 161).

(2) ACTION.—If the Commission finds at any time, as a result if its assessment under paragraph (1), that the measures referred to in paragraph (1)(A) are insufficiently effective, then the Commission shall initiate a rulemaking proceeding to prohibit the distribution of violent video programming during the hours when children are reasonably likely to comprise a substantial portion of the audience.

(3) DEFINITIONS.—Any term used in this subsection that is defined in section 718 of the Communications Act of 1934 (47 U.S.C. 718), or in regulations under that section, has the same meaning as when used in that section or in those regulations.

(e) SEPARABILITY.—If any provision of this section, or any provision of an amendment made by this Act, or the application thereof to particular persons or circumstances, if found to be unconstitutional, the remainder of this Act or that amendment, or the application thereof to other persons or circumstances shall not be affected.

(f) EFFECTIVE DATE.—The prohibition contained in section 718 of the Communications Act of 1934 (as added by subsection (c) of this section) and the regulations promulgated thereunder shall take effect 1 year after the regulations are adopted by the Commission.

STEVENS AMENDMENT NO. 228

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to amendment No. 110 submitted by Mr. MCCAIN to the bill, S. 672, supra; as follows:

In amendment number 110, beginning with the word "provisos:" on line 2, strike all through "proposal" on line 6 and insert in lieu thereof "sentence:

"Consistent with the restriction in the preceding sentence and within 90 days of the date of enactment of this Act, the Secretary of the Interior, in consultation with State and local government officials in each affected State, shall submit to Congress a proposal that defers to State law and incorporates the rules, regulations, and policies applicable to the Bureau of Land Management regarding rights of way established pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such rules, regulations, and policies were in effect prior to October 1, 1993, and the recommendations of affected State and local government officials".

GREGG AMENDMENT NO. 229

(Ordered to lie on the table.)

Mr. GREGG submitted an amendment intended to be proposed by him to the bill, S. 672, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 326. SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1)(A) the officers of the Federal Government and the members of the European Union have had lengthy negotiations with regard to the establishment of a mutual recognition agreement with respect to good manufacturing practice (GMP) inspections of medical devices and pharmaceuticals and the processes of approving medical devices;

(B) in December 1996, the President urged the officers of the Federal Government and the members of the European Union to resolve the issues with respect to the negotiations, and enter into and implement the mutual recognition agreement;

(C) the officers of the Federal Government and the European Union Commission are meeting to resolve the issues.

(D) the mutual recognition agreement would enhance the trade relationships between the United States and the European Union and generate regulatory savings with respect to medical devices and pharmaceuticals; and

(2) the harmonization of international standards could facilitate commerce between the United States and foreign countries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1)(A) the United States should continue to press its negotiating objectives in order to maintain both the high United States health and safety standards and to facilitate trade between the United States and the European Union.

(B) assuming the European Union Commission demonstrates the necessary flexibility, the officers of the Federal Government and the European Union Commission should on, an expedited basis, conclude negotiations, enter into, and implement a mutual recognition agreement with respect to—

(i) good manufacturing practice inspections for medical devices and pharmaceuticals; and

(ii) the processes of approving medical devices; and

(C) the Secretary of Health and Human Services, in coordination with the USTR and other appropriate agencies, should facilitate the conclusion of negotiations between the European Union Commission and the officers of the Federal Government with respect to the mutual recognition agreement;

(2) the Secretary of Health and Human Services should separately participate in meeting with foreign governments to discuss and reach agreement on methods and approaches to harmonize key regulatory requirements and to utilize international standards and

(3) the Office of International Relations of the Department of Health and Human Services (as established under section 803 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 383)), in coordination with USTR, should have the responsibility of ensuring that the process established by the Secretary of Health and Human Services and foreign countries, to harmonize international standards, is continuous and productive.

(4) This section shall become effective one day after the date of enactment.

FEINSTEIN AMENDMENT NO. 230

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to amendment No. 171 submitted by Mr. REID to the bill, S. 672, supra; as follows:

On line 3, strike all that follows and insert the following:

"(5) FLOOD CONTROL LEVEES.—Consultation or conferencing under paragraph (2) or (4) is not required for an agency action that consists of operating, maintaining, repairing or reconstructing a federal or non-federal flood control levee for any area subject to flooding.".

(b) TAKINGS.—Section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)) is amended by adding at the end the following:

"(3) FLOOD CONTROL LEVEES.—For purposes of this subsection, an activity of a federal or non-federal person is not a taking of a species if the activity consists of operating, maintaining, repairing, or reconstructing a federal or non-federal flood control levee for any area subject to flooding.".

HOLLINGS (AND OTHERS) AMENDMENT NO. 231

Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. GREGG, and Mr. GLENN) proposed an amendment to the bill, S. 672, supra; as follows:

On page 47 strike lines 14 through 18 and insert the following:

SEC. 303. None of the funds made available in any appropriations Act for fiscal year 1997 may be used by the Department of Commerce to make irreversible plans or preparation for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the apportionment of Representatives in Congress among the States.

CONRAD AMENDMENTS NOS. 232–234

Mr. STEVENS (for Mr. CONRAD) proposed three amendments to the bill, S. 672, supra; as follows:

AMENDMENT NO. 232

On page 9, line 21, strike "emergency insured" and insert in lieu thereof "direct and guaranteed".

On page 9, line 25, strike "$18,000,000, to remain available until expended" and insert in lieu thereof "$28,000,000, to remain available until expended, of which $18,000,000 shall be available for emergency insured loans and $10,000,000 shall be available for subsidized guaranteed operating loans".

On page 10 line 3, strike "$18,000,000" and insert in lieu thereof "$28,000,000".

AMENDMENT NO. 233

On page 74, between lines 4 and 5, insert:

"FOOD AND CONSUMER SERVICE

THE EMERGENCY FOOD ASSISTANCE PROGRAM

Notwithstanding section 27(a) of the Food Stamp Act, the amount specified for allocation under such section for fiscal year 1997 shall be $80,000,000."

AMENDMENT NO. 234

On page 13, line 1, strike "$161,000,000" and insert "$171,000,000".

On page 13, line 15, strike "$10,000,000" and insert "$20,000,000".

KERREY (AND DORGAN) AMENDMENT NO. 235

Mr. STEVENS (for Mr. KERREY, for himself and Mr. DORGAN) proposed an amendment to the bill, S. 672, supra; as follows:

At the appropriate place in the bill insert the following new language:

SEC. . Section 45301(b)(1)(A) of title 49, United States Code, is amended by inserting before the semicolon "and at least $50,000,000 in FY 1998 and every year thereafter".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, May 14, 1997, at 9:30 a.m. to receive testimony on the Campaign Finance System for Presidential Elections: The Growth of Soft Money and Other Effects on Political Parties and Candidates.

For further information concerning this hearing, please contact Stewart Verdery of the committee staff on 224-2204.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Oversight of SBA's Finance Programs—Part II." The hearing will be held on May 15, 1997, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 7, 1997, at 10 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, May 7, at 10 a.m. for a hearing on government secrecy.

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

COMMITTEE ON THE JUDICIARY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 7, 1997 at 10 a.m. to hold a hearing on S. 507, the Omnibus Patent Act of 1997.

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

COMMITTEE ON THE JUDICIARY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session on the Senate on Wednesday, May 7, 1997 at 2 p.m. to hold a judicial nominations hearing.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, May 7, 1997, at 9:30 a.m.

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

COMMITTEE ON SMALL BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for an oversight hearing on SBA's finance programs on Wednesday, May 7, 1997, which will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 7, 1997, at 2 p.m. to hold a closed hearing on the nomination of George J. Tenet to be Director of Central Intelligence.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Senate Committee on Commerce, Science and Technology be authorized to meet on May 7, 1995, at 2 p.m. on the National Science Foundation and Technology Administration fiscal year 1998 budgets.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Wednesday, May 7, 9:30 a.m., on the reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA] and safety issues and programs.

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

ADDITIONAL STATEMENTS

WENATCHEE NATIONAL FOREST

• Mr. GORTON. Mr. President, it is my pleasure today to express my deep gratitude and pride in recognizing the Wenatchee National Forest as a recipient of the Salvage Sale Showcase Award under the U.S. Forest Service's Fiscal Year 1995 Timber Salvage and Recovery Program.

The Wenatchee National Forest encompasses 2.2 million acres of Washington's finest forest lands—lands providing for an abundance of recreational activities and employment and resource opportunities for Washington State residents. In July 1994, however, a lightning storm followed by a severe fire, threatened to suddenly demolish this majestic landscape within days.

When the last flame had been extinguished, the damage was daunting. Three fires of unprecedented intensity had consumed 186,000 acres of Wenatchee National Forest lands, destroying 37 homes and 76 outbuildings and threatening the lives of human beings who had dared to cross its massive path. Firefighters from various parts of the country, 8,000 in all, fought valiantly to save the precious resources endangered by runaway wildfires. It is to their credit that so many homes, communities, and human lives are intact today.

Determined and resolute, the employees of the Wenatchee National Forest went to work. Less than 2 months after the first spark ignited, the largest emergency rehabilitation effort ever undertaken by the Forest Service was launched with the cooperation of other Federal, State, county, and local agencies. The rehabilitation effort addressed and executed projects which included erosion control, road rehabilitation, wildlife habitat, helicopter seeding, and collaborative learning. The effort was successfully completed by mid-November 1994, for $18 million—$2 million under budget.

With the worst behind them, Forest managers looked ahead toward long-term forest health and sustainability. Interdisciplinary teams consisting of personnel from all six ranger districts combined their knowledge and know-how to develop the necessary environmental documents. Within 11 months, these teams assembled an astounding 10 environmental analyses and 1 environmental impact statement. Science-based decisionmaking rendered a total

of 22 timber sales, resulting in landscape level fuel treatment on over 30,000 acres. Nearly 138 million board feet of fire killed or damaged timber was offered for sale.

Salvage was the key to this vision. Removing dead and dying trees provided the much needed opportunity to reduce stress and preserve larger, healthier trees. In addition, salvage logging in the Wenatchee has enhanced wildlife habitat and supported the perpetuation of ancient forest conditions. Mr. President, it is for this very reason that I sponsored timber salvage legislation in the spring of 1995. Not only was the forest able to begin healing and promoting catastrophic fire prevention through salvage operations, it was also able to provide a significant amount of timber for the public benefit.

In conclusion, I want to congratulate and commend the efforts of all of those who contributed to the successful and innovative restoration of the Wenatchee National Forest. Their accomplishments over the past 3 years are proof positive that we can effectively balance environmental and economic concerns in our national forests if we give local forest managers the flexibility they need to do their jobs. The employees of this forest are outstanding examples of the teamwork desperately needed throughout our national forest system. Because of their professionalism, tenacity, and courage, the Wenatchee National Forest is on its way back to health and sustainability. My congratulations to them on a job well done. Keep up the good work.•

WEST VIRGINIA MOTHER OF THE YEAR, KELLY L. GEORGE

• Mr. ROCKEFELLER. Mr. President, it is my great honor today to rise to congratulate Kelly L. George of Cabell County in West Virginia. Kelly has been selected by American Mothers, Inc., as the West Virginia Mother of the Year, and I commend them for their choice.

As a father of four children, I know how important it is to have a strong mother figure in the family, and Kelly is exactly that for her family. She continues to instill the value of high academic achievement to her children Vincent, Victor, Valerie, Von, and Vanessa. She works very hard to provide a spiritual foundation for her children, and she also takes on the enormously important task of teaching strong family values.

But this is not all that Kelly George does. Like my wife Sharon, Kelly balances her tasks as a mother with her duties in an active career. Kelly has an impressive list of accomplishments outside the household. She is on the Thomas Hospital Board of Trustees, is a Kanawha County Parks and Recreation Commissioner, and chair of the West Virginia Board of Risk and Insurance Management. She is also a life member of General Federation of Women's Clubs and the National Committee of State Garden Clubs, as well as international chair for the Pilot International World Association. On top of all this, she is a legislative analyst, a historian, and the author of "Rhythms, Remembrances and Recipes."

Imagine combining all of these activities with her educational background in the West Virginia public schools, Marshall College, Cambridge School of Radio and Television, and Drake School of Drama and with the tremendous job of being a mother. Most of us would find difficulty in staying active just in these tasks outside the home, but Kelly is able to balance those with her role as a mother.

I know Kelly personally and know that she is a phenomenal person who is enormously talented. I am proud to say that Kelly George is the West Virginia Mother of the Year for 1997–98. And I congratulate her on this tremendous achievement.•

HONORING ARMAND D'AMATO, SR.

• Mr. D'AMATO. Mr. President, I rise to pay tribute to my father, Mr. Armand D'Amato, Sr. of Island Park, NY. He is being honored on May 8, 1997, for his role as the founder of the Island Park Chamber of Commerce, which celebrates its 50th anniversary this month. I would like to take this opportunity to commend my father for his lifelong commitment to making his community a richer, more prosperous and safer place to live.

One of Armand D'Amato's most important and lasting contributions to his community was the founding of the Island Park Chamber of Commerce in 1947. The chamber was, and remains today, a vital tool in developing the economic potential of Island Park. As a small businessman and the first president of the chamber of commerce, serving in that position for 9 years, dad recognized that economic prosperity should not be taken for granted and that only through vigilance and hard work is a community's economic well-being safeguarded.

Armand D'Amato was born in Newark, NJ, the second of nine children born to Italian immigrants who traveled to America from Avalino, Italy while still teenagers. As a child, he rarely heard English spoken in his home. It was not until he attended elementary school at the age of 5 that he began to learn English. At a time when Italian immigrants in America were subjected to unfair discrimination, the obstacles dad encountered as a child taught him valuable lessons about the realities and hardships of life, and instilled in him a determination to succeed.

After earning his bachelor's degree from Montclair State Teachers College and his master's from New York University, Dad served his country overseas during World War II. He and my mother, Antoinette, settled in Island Park in 1945. Since that time, he has been energetically involved in the public life of Island Park.

Armand D'Amato's dedication to his community did not stop with the founding of the Island Park Chamber of Commerce. He was also instrumental in founding the American Alliance to Combat Crime and Violence, an organization sponsored by the Island Park Chamber of Commerce dedicated to making Island Park a safer place to live and raise a family. He also founded the Island Park Taxpayer Association in 1953, the Tri-Community Council of Island Park in 1954, and served as district governor of the Nassau County Lion's Club in 1963.

During the 1970's and 1980's, dad served as director of business research at the nassau County Department of Commerce and Industry and organized the Business Resource Center at Nassau Community College.

My father's vigorous commitment to public service and the values he has instilled in his family are reflected by the career paths chosen by his two sons. My brother, Armand D'Amato, Jr., served in the New York State Assembly for 14 years. And my own career in public service was certainly inspired by his active involvement in the community.

Armand D'Amato has worked his entire life to make Island Park a better place to live. His dedication and commitment to the concept of community service has had an immeasurable impact on the lives of the citizens of Island Park. My father personifies the spirit of community leadership to which others should aspire, and I am proud to join in honoring him.•

NATIONAL ARSON AWARENESS WEEK

• Mr. CLELAND. Mr. President, I rise today to highlight National Arson Awareness Week, a massive community based arson prevention program sponsored by the Federal Emergency Management Agency [FEMA], which began Sunday, May 4, and continues through Saturday, May 10.

This program is of particular importance to me because a city in my own State—Macon, GA—has been chosen as one of the three pilot cities. The program will focus on a week of special events aimed at educating high-risk neighborhoods on how to prevent arson and on the importance of getting community members involved. The success of this program is vital not only in Macon but in the other two pilot cities, Charlotte, NC, and Utica, NY, because they will serve as models for future American cities.

National Arson Awareness Week was inspired by the national arson prevention initiative, which was announced by President Clinton on June 19, 1996, in response to the rash of church burnings, most of which occurred in the South. The President asked James Lee Witt, Director of FEMA, to coordinate, in partnership with the Department of Justice, the Department of the Treasury, and the Department of Housing and Urban Development, available Federal, State, local, and private resources for arson prevention.

Arson is a growing national problem. One out of every four fires in this country is intentionally set. Over 500,000 arson fires occur each year, causing an estimated 750 fatalities and over $2 billion in property damage.

These acts of violence can destroy the very base of a community, but they can be prevented. Mr. President, I ask that you and all of my colleagues recognize this week and the three cities for taking firm hold of this problem and proudly pulling their communities together to prevent future arson fires.●

C.W. "MAC" McCLELLAN

● Mr. ABRAHAM. Mr. President, I rise today to pay my respects to a longtime dear friend, C.W. "Mac" McClellan. Mac passed away on Sunday, May 4th, at his home in Harbor Springs, MI, following a long and valiant fight with cancer.

My wife Jane and I came to know Mac during his countless years of volunteer service to the Michigan Republican Party. While I have met many exceptional people during my time in politics, I have yet to encounter anyone more dedicated to the causes they believed in as was Mac, nor do I anticipate I will anytime soon.

To his wife Ruth and son David, my deepest sympathies. Please know you and your loved ones are in my thoughts and prayers.

Any one of a litany of titles could aptly describe Mac: Army Air Corps pilot, Air Force Reserves lieutenant colonel, General Motors executive, civic activist, father, and husband, to name just a few. For me, Mac will always be warmly remembered as my friend.

Mac McClellan never asked any more of others than he was willing to give of himself. He was blessed with a tireless devotion and a boundless spirit, and those who knew Mac are indebted to him for leaving our lives richer than he entered them. He will be greatly missed, but not soon forgotten.●

KOSRAE AND THE FEDERATED STATES OF MICRONESIA: OUR FRIENDS IN THE SOUTHWEST PACIFIC

● Mr. AKAKA. Mr. President, for the last two weeks, I have had the great pleasure of sponsoring two Congressional fellows from the island of Kosrae. Mr. Lyndon Jackson and Mr. Charleton Timothy, legislative aides for the Government of Kosrae, have been working in my office since April 22 and will be leaving on May 9. They have been sent to Washington at the request of the speaker of the Kosrae State Legislature, the Honorable Hiteo S. Shrew, to learn more about our Nation's legislative and governmental processes.

For their benefit, I thought I might take this opportunity to make some observations about Kosrae. As some of my colleagues know, Kosrae is one of the most beautiful islands in the Pacific, located just 5 degrees north of the equator, about 2,500 miles southwest of Hawaii. While only 42 square miles in size, it is well known throughout the region for its lush topography, beautiful beaches, clear blue waters, and rich coral reefs.

I should tell my colleagues that the splendor of Kosrae is not exaggerated. My one and only visit to Kosrae took place fifty years ago this year, shortly after the end of World War II, when I had the good fortune to help crew the *Morning Star*, a schooner sent by the churches of Boston, MA, as part of a Christian mission to islands in Micronesia. The island was remarkably beautiful at that time, and I have been told that this continues to be the case.

Although experiencing significant cultural changes over the past several decades, Kosrae's 8,000 inhabitants enjoy a casual, family oriented lifestyle. Fishing is a significant recreational and commercial activity. Kosrae is a major exporter of tuna to Guam and other Pacific islands. The island also has an abundance of citrus products and is particularly known for its sweet tangerines. And Kosrae handicrafts, such as their unique coconut baskets and trays, are renowned throughout the region.

Kosrae is a single-island state that is part of the Federated States of Micronesia [FSM], formerly known as the United Nations Trust Territory of the Pacific Islands. As trustee of the territory in the years following World War II, the United States was responsible for preparing the islands for eventual self-government, by helping develop their political, economic, and social institutions.

In 1978, the four territorial districts of Yap, Chuuk, Pohnpei, and Kosrae organized to form the Federated States of Micronesia, an action which became effective 1979 after the adoption of the Federation's draft constitution. The Federated States comprise 607 small islands, totaling only 270 square miles of land, spread across more than 1 million square miles of the Pacific.

In 1986, after years of negotiations with our government, the FSM entered into the Compact of Free Association. The trusteeship was terminated at that time. The United States exercised no further administrative responsibility, and the island nation became fully self-governing. The terms of the compact generally provided for a framework of United States assistance, in return for which the FSM delegated security responsibility to the United States. This agreement has been in effect since November of 1986 with renegotiation of its financial provisions to start in November of 1999.

Mr. President, in the period since the signing of the compact, the close relationship between the United States and FSM has in some respects become stronger. The FSM has established constitutional governments at the national, state, and municipal levels that are patterned after our own. And in appreciation for our investment in Micronesia's quest for self-sufficiency, the FSM has reciprocated by maintaining strong political, economic, educational, and cultural ties.

The FSM has also been a strong supporter in the United Nations on key issues of concern to the United States For instance, the FSM has consistently voted with the United States on such major issues as the situation in Bosnia, the Middle East peace process, and human rights in Iran and Iraq.

Mr. President, I expect the strong relationship between the peoples of Micronesia and the United States to grow stronger and richer in the years ahead, as the FSM's experiment in American-style democracy continues. As the November 1999 date for renegotiating the compact of Free Association draws closer, I hope that my colleagues who have not yet had an opportunity to do so will take the opportunity to visit this unique and lovely place, and to acquaint themselves with the needs of Micronesia's people as well as the unique opportunities that the region offers our nation.●

FAMILY-FRIENDLY TELEVISION

● Mr. BOND. Mr. President, today I wish to talk about yet another sign of the decline of American culture.

What ever happened to the family hour? This is the complaint I have heard from many moms and dads in Missouri.

It wasn't so long ago that parents could sit down with their school age and even preschool children to watch television from 7–8 p.m. and not be worried about the content of the programs.

For many years, the major television networks voluntarily ran programs during the first hour of prime time that were considered family friendly, that is, without profanity, violence, or adult themes.

Shows like "Happy Days," "MASH," "The Waltons," "Little House on the Prairie," and "The Cosby Show" gave

us wonderful family entertainment in the evening, not to mention the fact that they were great revenue producers for the networks.

Now, however, if you turn on the television at that time, you are met with images so graphic, so sexual, or so violent, that you have to channel flip to keep your children from seeing them, or have them leave the room, or turn the television off.

The Media Research Center here in the Washington area will issue a report later today on the content of family hour programming.

Last year they found that vulgar language was used commonly during the first hour of prime time. They found that sex outside of marriage was portrayed during the family hour eight times more often than sex within marriage.

Mr. President, American families have enough forces working against them—struggling to make ends meet, competing priorities, not enough time together—not to be able to relax together during the evening and enjoy a television program that isn't violent, or graphic, or full of profanity.

That is why I am joining with many other Senators and Congressmen to ask Hollywood television executives to bring back the family hour. We're not mandating this. We're not passing a law to force it. We're simply putting a little polite pressure on the networks to ask them to think about American families when they set their programming.

Now, they may take the line that it is up to parents to make sure they monitor their children's TV watching. And I agree. But, what we are saying is, give parents some good choices. Give us programming that we can watch together, as a family.•

ARSON EDUCATION

• Mr. GLENN. Mr. President, arson poses a serious but preventable threat to our society. This week, the Federal Emergency Management Agency [FEMA] is launching a community-based campaign entitled, "Target Arson."

Developed by FEMA in conjunction with the National Arson Prevention Initiative, "Target Arson" will educate young people on the dangers of fire, the importance of parental control of access to matches and cigarette lighters, and the need for adults to set good examples for children. I have long been a supporter of efforts to prevent and combat arson. During my second term in the Senate, I sponsored legislation that was enacted that requires the Federal Bureau of Investigation [FBI] to include arson statistics in its Uniform Crime Reports. This legislation increased our ability to detect, prevent, and prosecute arson crimes.

One out of four fires is intentionally set. More than 500,000 fires were set deliberately last year, over one-half of which were set by juveniles. These fires killed more than 500 people and caused approximately $1 billion in property damage. Through this education campaign, "Target Arson" will emphasize the 100 percent preventable nature of this offense.

Mr. President, I join FEMA and its director, James Lee Witt, in supporting this important educational program. I urge my colleagues to support arson education in the schools in their States.•

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, after consultation with the Republican leader, pursuant to Public Law 104–201, appoints Charles B. Curtis, of Maryland, to the Commission on Maintaining United States Nuclear Weapons Expertise.

The Chair, on behalf of the Democratic leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 280, adopted October 8, 1994, announces the following appointments to the Senate Arms Control Observer Group: The Senator from Massachusetts [Mr. KERRY] and the Senator from Illinois [Mr. DURBIN].

ORDERS FOR THURSDAY, MAY 8, 1997

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 a.m. on Thursday, May 8.

I further ask unanimous consent that, on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and there be a period for morning business until the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each with the following exceptions:

Senator FEINGOLD will be allowed 20 minutes; Senator DOMENICI, or his designee, 15 minutes; and Senator GORTON, 10 minutes.

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

Mr. STEVENS. Mr. President, I further ask unanimous consent that following morning business, the Senate resume consideration of the pending business, S. 672, and that Senator WARNER be recognized at that time in order to call up an amendment.

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

PROGRAM

Mr. STEVENS. Mr. President, for the information of all Senators, tomorrow, following morning business, the Senate will resume consideration of the supplemental appropriations bill.

At 10 a.m. Senator WARNER will be recognized to offer his amendment.

It is the intention of the manager—myself—that a vote to table the Warner amendment occur sometime around 10:30 a.m. Senators should be prepared to vote on the Warner amendment at 10:30 a.m.

There is not a time agreement on that. But when this Senator can get the floor, I will make a motion sometime around 10:30 to table the Warner amendment.

Following the disposition of the Warner amendment, it is our expectation to continue to debate the Byrd amendment. And additional votes will occur on Thursday. It is the intention of the leadership still to try to finish this bill. I felt we could finish it by tonight, but it will be finished by the time we close tomorrow night because there are events planned for the weekend. We will finish the bill tomorrow night.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. STEVENS. Mr. President, pursuant to the previous request, I ask that the Senate stand in adjournment.

There being no objection, the Senate, at 8:02 p.m., adjourned until Thursday, May 8, 1997, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, May 7, 1997*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. SHAW].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 7, 1997.

I hereby designate the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

We are grateful, O God, that Your word points us in the way of peace and reconciliation in our lives, our communities, and in our world. And just as Your design calls us to be Your people and to do Your will, so too You have given us minds and strength to use in ways that heal the wounds of division in the land and promote justice for every person. Thus we pray, gracious God, for discernment and wisdom in our common tasks, that we will use the abilities You have given us in honor of all and in service to every person. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey [Mr. PASCRELL] come forward and lead the House in the Pledge of Allegiance.

Mr. PASCRELL 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.

JUVENILE JUSTICE BILL PROMOTES SAFETY IN THE CLASSROOM

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

Mr. CHABOT. Mr. Speaker, this week we are honoring this Nation's teachers, those hardworking men and women who under increasingly difficult circumstances train and mold young minds. The work teachers do today will influence those young Americans every day of their lives, and they are to be commended for their dedication.

As my colleagues know, too many of our Nation's schools have become havens for drugs and gangs, endangering our children and our teachers. When we consider the Juvenile Crime Control Act later today, we are going to do something about this problem. Language I was able to incorporate into the legislation with the cooperation and support of the gentleman from Florida [Mr. MCCOLLUM], the chairman, will permit cities and counties to use Federal block grant funds to protect students and teachers from gangs and drugs and violent crime in their schools.

Mr. Speaker, when parents send their children off to school, they should not have to worry about their safety. The same goes for the families of those who teach our children. Sadly, we cannot guarantee their safety, but we can help. We can pass the Juvenile Crime Control Act today.

IN MEMORY OF REV. DR. ALBERT MOSES TYLER

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

Mr. PASCRELL. Mr. Speaker, today I address the House on the passing of a great man, a great American, Rev. Dr. Albert Moses Tyler, who died at 93 years of age in Paterson, NJ.

He was a minister for 69 years, and head of St. Luke's Baptist Church in Paterson for 62 years. He spoke softly about our dignity and human rights but always intensified his efforts to make sure that our civil rights are protected.

We have lost a great American, but his legacy lives on. I try in this House to carry on his great model of principles which he brought forth.

SUPPORT H.R. 3, JUVENILE CRIME CONTROL ACT

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

Mr. KINGSTON. Mr. Speaker, the junior high school that I went to in Athens, GA, had strict discipline. Students were taught to respect each other, to respect teachers, and to respect the institution.

The high school, however, that I went to had a different view of discipline, that is to say, a very spotty record, if any, on it. When I was in 10th grade, a student pulled a gun on another one in a basketball game I was playing in, and then another time a student was shot on the campus. When I was in high school, I had a group of students jump on me and beat me up. Without discipline, students somewhat behaved in a bad fashion.

Currently today teenagers account for the largest portion of all violent crime in America. Offenders under the age of 18 commit more than one-fifth of all violent crime. If this trend continues, we will have a 31 percent increase in juvenile offenders by the year 2010.

H.R. 3 addresses this. It tries to make our school yards and our streets safer from juvenile offenders. I hope that my colleagues will support me in supporting it.

FAIRNESS IN HIGHWAY FUNDING

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

Mr. CLEMENT. Mr. Speaker, I rise today in support of the transportation bill, better known as the ISTEA bill. It is a bill which has brought unprecedented flexibility and authority to local governments and provided our communities with valuable means of intermodal transportation. But there is one problem with the transportation bill: the highway funding formula.

Since the passage of ISTEA in 1991, Tennessee has received a mere 79 cents on the dollar for every dollar contributed to the Federal Highway Trust Fund by State motor fuel users. This formula, based on outdated historic percentages from the years prior to 1991, perpetuates the strength of Northeastern States and does not follow the growth trends of the Sunbelt States like Tennessee.

This nonsense must end this year and a new transportation bill must guarantee a more equitable minimum allocation to all 50 States. Tennessee is the Volunteer State, but we will no longer volunteer unjustly our funds to States with less growth and more roads and rail. Let us bring about equity and fairness to all 50 States and do it this year.

SAFE SCHOOLS

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

Mrs. KELLY. Mr. Speaker, as Members probably know by now, this week is Teacher Appreciation Week, and we are very grateful for all of them. As a former teacher, I have learned from experience that the best way we can truly appreciate teachers and their students is to make certain that they are provided with the safest possible learning environment.

This week in Congress we are going to begin to work on legislation to ensure safe classrooms by removing violent juveniles. We are going to work to accomplish this by reforming our juvenile justice system.

But this will only be the first step in a series we are going to take in this Congress to reduce crime in our schools and in our communities. The next step will be through strong prevention programs when we move to reauthorize the Juvenile Justice and Delinquency Act this summer.

We need safe classrooms for teachers and for students. We can accomplish this through our focus on both the areas of prevention and punishment. I ask for all of my colleagues to join me in support of safer schools when we pass both the Juvenile Crime Control Act and reauthorize the Juvenile Justice and Delinquency Act.

CONDOMS SUBJECT TO MILITARY SCRUTINY

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

Mr. TRAFICANT. Mr. Speaker, even though the Pentagon is cutting costs and talented officers are being forced out, the Pentagon spent $90,000 last year to study condom preference and the failure rates of condoms in the military.

If that is not enough to kill your rabbit, the Pentagon still does not know if a Patriot missile can stop the Silkworm, but they know for sure which condom can save the Republic. What is next, Mr. Speaker, a $100,000 study to find out if soldiers prefer boxer shorts over briefs? If women in the military prefer Maidenform over Wonder Bra?

Beam me up. I say with this study the Pentagon has reached the apex of their condominium. There is no budget crisis in the District of Columbia. There is a common sense crisis in the District of Columbia.

I yield back the balance of any heretofore untested condoms still subject to military scrutiny.

NUCLEAR WASTE BILL

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

Mr. GIBBONS. Mr. Speaker, the nuclear waste bill currently before the House is a bill that will destroy the environment and endanger the lives of our constituents. In a letter to my office, Deputy Secretary of Energy Charles B. Curtis stated the following: "If S. 104 and its companion bill, H.R. 1270, were presented to the President in its current form, the President would veto the bill." Mr. Curtis goes on to say: "This bill would provide no practical opportunity to designate an alternative to Yucca Mountain as an interim storage site because it does not provide enough time to designate, license and construct a facility at another site by the year 2002."

The situation is very clear. This bill could potentially devastate our districts, the environment in our districts, and will be vetoed by the President. Is it really worth voting to destroy the environment in order to bail out the nuclear power companies on a bill that has no chance of becoming law?

FUNDING FOR WIC

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, the Committee on Appropriations has rejected the Clinton administration request for WIC funding. What a surprise.

The WIC Program is one of the most successful Federal programs that has ever been created. The WIC Program reduces the incidence of low-birthweight babies, infant mortality and anemia. This is a program that serves some of the most at-risk infants in the country, many of whom are Latino or Afro-American babies.

The Republicans say we do not need to spend that money on these needy children. Instead, the Republicans tell us we need a capital gains tax cut which will put billions of dollars in the pockets of their rich friends. This is crazy. First they try to cut school lunches to hungry children. Now they literally want to take milk away from hungry infants. For shame.

SUPPORT HIGHWAY TRUST FUND FAIRNESS ACT

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

Mr. SANFORD. Mr. Speaker, ISTEA will be reauthorized this year. ISTEA sets the funding formula by which gas taxes are spread across our country, and I think with it will come the chance to make a real stand for the simple theme of fairness.

Fairness is the most fundamental of all American precepts. It is the idea on which the Revolutionary War was built. It was the idea behind the Boston Tea Party. It was the idea behind the civil rights movement. Yet right now with our gas tax formula, we have a formula that leaves South Carolina losing $50 million a year, California losing over $200 million a year, Florida losing over $200 million a year, while a handful of States up in the Northeast receive disproportionate amounts of money. That is not fair.

The gentleman from Oklahoma (Mr. LARGENT), the gentleman from Tennessee (Mr. CLEMENT), and myself have a Highway Trust Fund Fairness Act which would address this inequity. There are a number of other proposals to address this inequity. The point that I think we all need to remember is that it needs to be addressed and it needs to be fixed.

FAIRNESS IN BALANCED BUDGET PROCESS

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

Mr. SANDERS. Mr. Speaker, I regard it as an outrage that more and more pressure is being placed on the Bureau of Labor Statistics to change their approach of determining how the Consumer Price Index, the CPI, is being determined, with the goal of lowering it. Frankly, this is nothing more than a cheap, back-door way of balancing the budget on the backs of the elderly by cuts in Social Security, by not giving them an increase which honestly reflects the rate of inflation.

In the State of Vermont, in my view, not only is the current CPI not too high, it is too low. Elderly people are more dependent upon health care and prescription drugs than the general population, and the cost of health care is rising much faster than the general rate of inflation.

Mr. Speaker, in Vermont and throughout this country, millions of elderly people are trying to survive on $7,000 or $8,000 a year. Let us not cut their Social Security checks and make their lives even more difficult. Let us move toward a balanced budget, but let us not do it on the backs of the weakest and most vulnerable Americans, including our senior citizens.

□ 1115

NO LEARNING TAKES PLACE WITHOUT DISCIPLINE AND SAFETY

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

Mr. BARTLETT of Maryland. Mr. Speaker, during Teacher Appreciation Week, I hope everyone in Congress will support our efforts to make schools safe for teachers and children.

As a teacher for 24 years, I know firsthand that without safety and discipline in the classroom, no teacher can teach and no student can learn.

Congress is examining what works and what is wasted in the area of safety and discipline as part of our ongoing Education at the Crossroads project.

I hope everyone in Congress will vote for the Juvenile Crime Control Act this week. This bill will reform the juvenile justice system, it will make violent juvenile offenders accountable for their actions. It will help keep violent juveniles out of our classrooms and off our playgrounds. These steps will help us fulfill our moral obligation to provide our children with a good education so that they will have the tools to achieve the American dream.

EDUCATIONAL EXCELLENCE

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

Mr. ETHERIDGE. Mr. Speaker, I rise today to urge my colleagues to support educational standards of excellence for every child in this Nation. I know setting House standards is the best way to achieve educational excellence. Our students are working hard, and their teachers and parents strive to give them the support that they need. We must give them the tools to make the most of their God-given ability.

Last week we dedicated a memorial to this century's greatest President, Franklin Delano Roosevelt. It is fitting that we honor FDR as a leader who brought this country back from our worst economic calamity ever and brought us to the brink of greatness and our triumph over global tyranny.

One of FDR's guiding principles is captured by his observation that we will all be better off when we all are better off.

As the 105th Congress considers measures to strengthen education in this country, we must heed FDR's words and expand educational opportunities to all the children in America.

THERE IS NO ACCURATE WAY TO MEASURE CPI

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

Mr. PAUL. Mr. Speaker, using the CPI to measure cost of living adjustments is nothing more than a feeble attempt to measure dollar depreciation. This is no more accurate than using stock and bond prices to measure inflation.

I have a lot of reservations and think we are making a serious mistake by delivering to the Bureau of Labor Statistics the authority to manipulate the CPI numbers. This is ducking our congressional responsibility, and it is a back-door way to raising taxes and manipulating the entitlements. I think, most importantly, it fails to recognize the basic flaw in our system, and that is the monetary policy and a depreciating of currency.

But we have a lame duck President quite willing to accept the responsibility and to accept more executive legislative powers from the Congress, something the Constitution does not authorize. But here we have a President quite willing to, behind the scenes, raise taxes and manipulate the cost of living.

The truth is there is no accurate way to measure the cost of living index.

EXPRESSION OF ADMIRATION FOR LT. GOV. JOSEPH E. KERNAN

(Ms. CARSON asked and was given permission to address the House for 1 minute.)

Ms. CARSON. Mr. Speaker, I want to take a brief moment to share my pride and admiration for our Indiana Lieutenant Governor Joe Kernan.

Today, May 7, marks the 25th anniversary when Joe Kernan was shot down by the enemy over North Vietnam and held a prisoner of war for the succeeding 11 months.

Joe Kernan, a 1968 graduate of Notre Dame, was sent to Vietnam in 1972 aboard the USS *Kitty Hawk*, never set foot in Vietnam until his plane, where he was a navigator, was shot down and he was taken a prisoner of war. He was a prisoner of war for 11 months, he was repatriated in 1973 and continued on active duty with the Navy until 1974, December. The Combat Action Ribbon, two Purple Heart medals and the Distinguished Flying Cross are among the military awards that the Lieutenant Governor has received.

Mr. Speaker, he is an ordinary man. He worked for Procter and Gamble in Cincinnati. He moved to South Bend where he became mayor and the city's controller. He was elected mayor in 1987, served there 9 years, longer than any other mayor in South Bend's history, and in 1996 he and Gov. Frank O'Bannon were elected to the top posts in Indiana's government. Joe and his wife are natives of South Bend.

I just wanted to say today that Joe Kernan exemplifies what the court envisioned in that he is at the home of the brave at the land of the free.

IMPEACHMENT: A POLITICAL REMEDY TO A POLITICAL PROBLEM

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

Mr. BARR of Georgia. Mr. Speaker, in reviewing what we can do with regard to activist Federal judges who usurp the authorities of the legislative or executive branches, I was impressed by an article written on March 20 in the Washington Times by Paul Craig Roberts who said, there is no clearer, sounder, and firmer grounds for impeachment of judges than the violation of the constitutional oath, and there is no clearer, sounder, or firmer evidence that this oath has been violated than when judges violate the separation of powers and usurp the political functions of government. This has been understood by everyone since the day the Constitution was written.

As one professor noted, in the constitutional design of the Founding Fathers, especially Alexander Hamilton's discussion of the Federal judiciary in the Federalist Papers, the ultimate recourse in the event the judiciary usurps legislative powers is impeachment by Congress. This has been thoroughly understood in every period of our history.

Writing in the Harvard Law Review in 1913, Wrisley Brown, whose investigation led to the impeachment of Judge Robert W. Archibald, said impeachment is a political remedy to a political problem. It is directed against a political offense, it culminates in a political judgment, it imposes a political forfeiture, it is a political remedy for the suppression of a political evil with wholly political consequences.

PERSONAL EXPLANATION

Ms. HOOLEY of Oregon. Mr. Speaker, for the record, on rollcall vote 103 I mistakenly pressed "aye" instead of "no." My vote should have been recorded as a "no."

DUNN AMENDMENT TO H.R. 3, JUVENILE CRIME CONTROL ACT OF 1997

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

Mr. Speaker, we have an opportunity this week to do something about the safety of our children's schools. Every day children go to school in fear, not because they have a math test, but because the child next to them may harm them.

Tomorrow, I will offer an amendment to H.R. 3, the Juvenile Crime Control Act of 1997, to make our schools safer.

My amendment would take Megan's Law one step further. It would require States to submit a plan to the Attorney General, describing a process by which parents would be notified of a juvenile sex offender's enrollment in the elementary school or secondary school their child attends. This amendment strengthens Megan's Law by forewarning parents about juvenile sex offenders who may have fallen through the cracks even with community notification.

For example, some children attend schools outside their communities.

Parents in this situation may be unaware that their son or daughter is attending school with a juvenile sex offender. My amendment would forewarn these parents as well as those whose children attend schools within their communities.

We cannot let what happened to Megan Kanka happen again. Not in any community, especially not on a playground during recess.

TODAY IS NATIONAL TOURIST APPRECIATION DAY

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

Mr. FARR of California. Mr. Speaker, as all those in the gallery may not recognize, but today is National Tourist Appreciation Day, and this week is National Tourism Week. It is time to reflect that travel and tourism in America is our largest service export industry, the second largest employer in the United States and the third largest in retail sales. In 1996, tourism in the United States generated an estimated $467 billion in total expenditures. It directly employs 6.6 million Americans and indirectly employs 8.9 million.

In 1995, 236,000 new jobs were created as a direct result of domestic and international tourism in the United States. American travelers spent alone $685,000 per minute on travel and tourism, and international travelers spent $151,000 per minute in the United States.

In my district, travel and tourism brings in $1.5 billion a year and more than 20,000 jobs. This week more than 3,000 communities across the United States will participate in recognizing the importance of travel and tourism. I encourage my colleagues to do the same.

BALANCING THE BUDGET, CUTTING TAXES

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

Mr. GUTKNECHT. Mr. Speaker, what if Americans were to ask this question: "What are the politicians in Washington up to these days?" If you were to say, "Oh, they are doing exactly what we told them to do, balancing the budget, cutting our taxes, putting our fiscal house in order," if you were to say that, who would believe you?

It is time to believe. After 28 years of budget deficits, this Congress has an agreement with the President to balance the budget by 2002, if not later. Four years after the largest tax increase in our history, this Congress has an agreement with the President to change direction and cut taxes.

A lot of folks on the other side cried hysterically that we could not balance the budget and cut taxes at the same time. But this agreement does just that. This agreement is the first step in a new direction, government living within its means and tax relief for working families.

Let us take this first step and pass this historic balanced budget agreement. Let us do it for our kids.

FUNDING FOR WIC PROGRAM

(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, as we begin to work out the details of last week's balanced budget agreement, we need to remember that the choices that we make in this body reflect the values of our Nation. Next week this Congress will have an opportunity to cast an important vote about our budget priorities when we vote on funding for the Women, Infants and Children program.

Will this Congress vote to take milk, cereal, and formula off the breakfast tables of needy families, or will we vote to give this program the additional $38 million in funding that it needs to prevent 180,000 women and children from being removed from the WIC Program?

As we watch this budget agreement take shape, we need to vote to uphold the values of this Nation. We can start by fully funding the WIC Program, because it is a program that works. For every dollar spent, we save $3.50. It is a program that provides assistance to some of the most vulnerable members of our society. Democrats are united in our opposition to WIC reductions, and I urge my Republican colleagues to join us in voting to restore the full amount of the President's request for WIC.

HIGHWAY FUNDING

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

Mr. HUTCHINSON. Mr. Speaker, I rise to talk about the fairness in the way that we distribute our highway trust funds in America. The State of Arkansas is geographically centered in the heart of America. As this country expands its trade with our neighbors to the north and to the south, we will need to have adequate highways in order to accommodate this trade and to build vital arteries to connect us with the rest of the Nation.

More important than building a network for commerce, it is important that we have safe highways upon which Arkansas families can drive. There is a 43-mile strip of mountainous highway in my district that has in itself accounted for more than 1,500 automobile accidents in the last 9 years. It has been called one of the most dangerous roads in the Nation.

Clearly it is time that Arkansas taxpayers receive their fair share of highway funding. We are part of that group called "donor States," meaning that we pay more in highway taxes than we receive back. Arkansas is 16th in the Nation for the number of interstate highway miles. It places 41st in the amount of highway funding it receives.

I understand that we need a national highway network, but the step 21 proposal that I support provides a more equitable and fair distribution in the way we distribute our highway funds. For that reason, I am the 100th Member to support it and I ask for everyone to join with me in that.

ISTEA FUNDING EQUITY

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, the time is right for funding equity. Mr. Speaker, I rise to urge my colleagues to support funding equity when the House considers the ISTEA reauthorization bill. According to a GAO report, the current funding formula used to distribute billions of transportation funds is flawed.

My State of Florida is a perfect example of what is wrong with the formula. Florida is the fourth most populated State, third in the number of automobiles on the road, third in the number of automobiles miles traveled, third in the amount of money that our citizens contribute to the Federal Highway Trust Fund. Yet, Florida's average return on each dollar has been 79 cents since 1956, 45th in the Nation.

□ 1130

Under the fourth year of ISTEA, Florida will drop to 77 cents for every dollar, 46th in the Nation. The ISTEA reauthorization bill must include a formula that is based on current reasonable and appropriate factors.

JUVENILE CRIME

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

Mr. ADERHOLT. Mr. Speaker, as we consider this week the issue of juvenile crime and the ramifications that it has on our schools, I would like to express my concern about this important issue. By the year 2010, there will be a 31-percent increase in the number of juveniles in our country. Unfortunately, the problem of juvenile crime is predicted to increase drastically as well unless we act now.

Kids today commit crimes because they know they can get away with it. A juvenile that commits a cold blooded murder can be back on the street in most cases in less than 1 year.

We must realize that juveniles can be just as dangerous as adults and begin to treat them accordingly. The system must be reformed.

Kids in America today need the support of teachers and families and churches so that they can know the difference between right and wrong, and they need to know that a crime of any sort will not be tolerated regardless of age. Our children and our children's children deserve to have the same environment to learn that all of us had growing up.

SO-CALLED BALANCED BUDGET AGREEMENT

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

Mr. NADLER. Mr. Speaker, I just want to comment briefly on the so-called balanced budget agreement that was reached between the President and the House and Senate Republican leadership last week. I say so-called because it is really in the nature of an agreement to agree. There are many things that are not filled in there, many questions that are not answered that we just do not know yet.

But one thing that is clear is that $90 billion will have to be cut for the next 5 years from nondefense discretionary spending. We do not know how it is going to be cut, and we will not know that because those decisions will be made year by year by the Committee on Appropriations. But out of $290 billion, for everything the Government spends other than on entitlements, interest on the national debt and the military, for housing, for education, for transportation, for law enforcement, crime prevention, Head Start, issuing passports, research and development, everything that we think of when we think of what the Government does, other than entitlements and the Armed Forces, we are going to have to take $90 billion out of what is necessary to maintain the current level of services. That is going to be a major hit on our population. I simply urge caution.

HIGHWAY FUNDING SHOULD BE A FAIR DEAL FOR STATES

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

Mr. BRADY. Mr. Speaker, on this day in 1626 a wise Dutchman named Peter Minuit traded $24 of trinkets for the island of Manhattan. It is commonly agreed that Minuit received the better end of that deal.

When it comes to highway funding, however, a lot of taxpayers find themselves on the opposite end of the situation, on the bad end of the deal. For every dollar we send to Washington for highway funding, we receive back less than 78 cents. Twenty-five other States find themselves in the same position. Even though Federal law says we ought to receive 90 cents for every dollar, 18 States do not even receive that. Donor States are fast growing.

In Texas, we are a large State, very diverse, big infrastructure needs, and we are the entryway for our trade with America's largest partner, Mexico. This year as we address transportation issues, let us make sure we are giving taxpayers the fair deal they deserve.

SUPPORT WIC FUNDING

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

Ms. SLAUGHTER. Mr. Speaker, I rise to express my objection to the proposed cuts in the WIC Program contained in the supplemental appropriations bill that is being considered by the House Committee on Appropriations.

The women, infants, and children's program, known as WIC, is widely known as one of the most effective and cost-effective programs this Government operates. By providing nutritious food to pregnant women and infants, the WIC Program helps to ensure that babies who are born to low-income women get the full nutrition they need to develop and to grow properly. It is estimated that every dollar invested in WIC saves at least $3.50 in future expenditures on Medicaid and other programs.

The administration recommended $76 million, but it has been cut to $38 million in the supplemental bill, which means that 180,000 children and pregnant women will go unserved and hungry.

Now, we should be ashamed of ourselves for taking the food literally out of the mouths of babes, and I am pleased to know that my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], plans to offer an amendment to restore the important funding, and I shall certainly be supporting that. The richest country in the world cannot let its vulnerable citizens go without food for lack of political backbone, and I urge the support of my colleagues.

WIC FUNDING

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

Mr. BOEHNER. Mr. Speaker, the gentlewoman from New York who just spoke talked about cuts in the WIC Program, and I think it is time that we set the record straight.

Funding for the WIC Program in the current fiscal year is at $3.7 billion, the highest level ever spent for this very important program. Beyond that, we have added $38 million in additional funding to try to ensure that all of those people, women, infants, and children, get the food that they need throughout the rest of this fiscal year. People in the administration who run these programs say $38 million is enough to cover this current fiscal year.

I would also add that there is about $100 million left over from prior year funding for the WIC Program, and any suggestion that Congress is cutting the WIC Program simply is not true. We are increasing the amount of money in the supplemental appropriation bill that will be on this floor next week by $38 million for the WIC Program.

FUNDING AND JUVENILE JUSTICE

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

Mr. BLAGOJEVICH. Mr. Speaker, in many communities across our country, people are living in Hobbesian states of nature where life is nasty, beastly, brutish and, all too often, very, very short. The reason is that there is a dramatic rise in juvenile crime across this country.

The number of homicides committed by juveniles increased five times the rate of homicides committed by adults. Arrests for juveniles committing violent crimes will more than double during the next 15 years.

The need to address this problem clearly requires a comprehensive approach, yet the juvenile justice bill that is being attempted to be passed here in Congress only provides money for 12 States to address this problem, 12 States that include Wyoming and Vermont.

In America, Mr. Speaker, one-third of juvenile crimes occur in four cities: in Detroit, Los Angeles, New York, and Chicago. Yet under this bill, while Wyoming and Vermont receive funding to address juvenile crime, cities like Detroit, Chicago, and Los Angeles receive not a dime. It seems to me, Mr. Speaker, if we are going to address juvenile crime in a comprehensive way, we ought to apply our funding from sea to shining sea and do it in the places where juvenile crime occurs.

H.R. 1500 HURTS UTAH EDUCATION

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

Mr. CANNON. Mr. Speaker, I rise today regarding H.R. 1500, a bill introduced last week by the gentleman from New York, to designate 5.7 million acres in Utah, almost all of it in my district, as wilderness.

Within the 5.7 million acres in H.R. 1500 are more than half a million acres of school trust lands, and those are lands that are given to Utah in statehood to support our schools.

By surrounding these school trust lands with wilderness, H.R. 1500 would dramatically hurt their value, hurting Utah schools. The fact is, there is not one word in H.R. 1500, not one, that would protect the value of Utah's school trust lands either by trading the lands out or by providing cash value. That is why the Utah State School Board, Utah PTA, the Utah school superintendents and Utah Education Association all oppose H.R. 1500 as written.

The sponsor says he does not want to hurt Utah's school children, but that is exactly what H.R. 1500 does.

WIC FUNDING

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

Mr. PALLONE. Mr. Speaker, I just wanted to contradict what my colleague from Ohio on the Republican side just said about the WIC Program. The bottom line is that the $76 million in supplemental funds are needed for the WIC Program.

The information submitted by 50 States to the Agricultural Department in early April specifically says that they will have to drop, many of those States will have to drop women, infants, and children from WIC before the end of the fiscal year if no supplemental funding is provided. And the documents that these States filed with the Agriculture Department in early April basically took into account all unspent funds from fiscal year 1996.

The proposed $76 million supplemental funding requested by the administration takes these funds into account. So it is simply not true that there is carryover money that is going to be available to make up for this difference. When we are giving these estimates and we are saying that we need the $76 million extra, it takes into account those carryover funds.

I would point out, Mr. Speaker, that these estimates in these reports and the requests for this additional funding in many cases is coming from States governed by Republican Governors.

TEACHER APPRECIATION WEEK AND JUVENILE CRIME

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

Mr. SESSIONS. Mr. Speaker, this is Teacher Appreciation Week, and these hard-working individuals deserve to be recognized for their outstanding effort.

America's teachers provide an essential ingredient to the success and future of this country. Despite the commitment and dedication of these people, there is a pressing issue looming over our classrooms, and that is juvenile violence. Juvenile violence and crime is a constant threat to the safety of both students and teachers alike. In 1996, Texas authorities reported that of the 123,218 violent offenses committed statewide, 6 percent of these were committed by juveniles, and they resulted in the juvenile arrests of these people.

This problem must be remedied, not only in the 5th District of Texas, but across America. I am supporting the juvenile crime bill, one that will ensure that teachers will have a safe environment to teach and the students will be in a safe and secure classroom, one that is free of fear.

I think that we all agree that there is enough obstacles waiting for our children in their adult lives. I think we must make our childhood safe for those children and open to learning.

FUNDING FOR WIC

(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, let me talk about the ABC's of a mother's love. As we celebrate Mother's Day this week, let me tell my colleagues about women and infants and children, the WIC Program, which is facing a drastic cut. It is a shame that in the Committee on Appropriations, Republicans voted 28 to 24 to not give the $78 million needed to fund and to help mothers love their children. It is a shame as we speak that 180,000 women, infants, and children are falling off the rolls every single day.

The $38 million is not enough. The ABC's of a mother's love is to provide for those children. Those mothers dependent on the WIC Program to help their infants and children are now being deprived with this budget, but as well with the $38 million, that is not enough.

We need full funding for the WIC Program to show a mother's love. In tribute to mothers this Mother's Day, let us give full funding, as Democrats want, for women, infants and children, which is what America stands for.

CONGRATULATING SILVER CHARM

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

Mr. STEARNS. Mr. Speaker, sports enthusiasts around the world were treated to a stunning race Saturday during the 123d Kentucky Derby. Silver Charm raced neck and neck with Captain Bodgit from midstretch to the wire, with Silver Charm winning by a head.

Not only was this a thrilling contest, it was also noteworthy that Silver Charm and Captain Bodgit are both Florida-bred horses, born and trained in the rich horse country surrounding Ocala, my hometown. Silver Charm is a product of Dudley Farm in Ocala, and Silverleaf Farm in Ocala is home for the horse that sired Silver Charm, Silver Buck. In addition, Captain Bodgit is a product of Marion County, bred at Ocala's Still Lake Farm.

This was the first Run for the Roses victory for a Florida horse since Unbridled won in 1990. Florida stands second only to Kentucky in breeding Derby horse winners.

Mr. Speaker, speaking for my fellow citizens from Ocala, I know that we are honored but not surprised that an Ocala horse would place first and second in the Kentucky Derby. I look forward to seeing how the Florida horses fare in the Preakness.

□ 1145

SUPPORT THE PRESIDENT'S SUPPLEMENTAL REQUEST FOR THE WIC PROGRAM

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

Ms. PELOSI. Mr. Speaker, they say a word to the wise is sufficient. Why, then, do we not get the message here in Congress when we are told over and over again the importance of the care that we give to our children in their earliest moments of life? It is hard to believe, with all the new information we have, why the Committee on Appropriations voted last week to reduce the President's supplemental request for the WIC Program, the program for women, infants, and children, by 50 percent, cutting $38 million from the budget.

That money is really not nearly enough anyway for WIC to serve those who are currently eligible. Even at this $38 million supplemental funding level, more than 180,000 women, infants, and children who presently survive because of WIC will lose this life-sustaining program. Some States, including my own State of California, are already moving to remove people from the WIC Program. The program pays for itself. Indeed, it is an investment. The GAO has reported that each dollar spent on WIC saves us $3.50 in expenditures for Medicaid and SSI for disabled children and other programs.

As we prepare for Mothers Day, as families across the country set the table to honor our mothers, let us have a place at the table for the women, infants, and children of America who are poor. Support the President's supplemental request.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 900

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 900.

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

There was no objection.

PROVIDING FOR ACCEPTANCE OF STATUE OF JACK SWIGERT OF COLORADO IN NATIONAL STATUARY HALL

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the concurrent resolution (H. Con. Res. 25), providing for acceptance of a statue of Jack Swigert, presented by the State of Colorado, for placement in National Statuary Hall, and for other purposes.

The Clerk read the title of the concurrent resolution.

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

Ms. KILPATRICK. Mr. Speaker, reserving the right to object, will the gentleman from California kindly state the purpose of the concurrent resolution?

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Ms. KILPATRICK. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, House Concurrent Resolution 25 is a resolution to nominate and dedicate the statue of Jack Swigert to represent the State of Colorado in Statuary Hall. The resolution was introduced by the honorable gentleman from Colorado [Mr. DAN SCHAEFER], for the Republican delegation of Colorado. The resolution provides for a ceremony in the Capitol Rotunda to commemorate the occasion of the dedication.

As most people know if they have ever roamed the Capitol, there are a number of statues located in important rooms in the Capitol. Most of these statues emanate from the ability of each State to send two statues representing distinguished people in the history of the State. Colorado had sent only one. That was Dr. Florence Sabin. If the name is familiar in terms of medicine, and it was an excellent choice as a statuary representative for Colorado.

Similarly, the dedication and statue that we are offering in this resolution is a wise choice on the part of Colorado.

The dedication ceremony for the statue on May 22, 1997, at 11 a.m. will recognize Jack Swigert, native of Denver, a U.S. Air Force pilot, a recipient in 1970 of the Presidential Medal for Freedom, the command module pilot of the Apollo 13 mission, and an elected Representative to the House of Representatives from Colorado.

Unfortunately, Jack Swigert was not able to assume his position, and in a special election, the honorable gentleman from Colorado [Mr. DAN SCHAEFER] was elected to replace him. So it is especially noteworthy that the gentleman sponsoring the resolution was the gentleman who had the honor of replacing Jack Swigert.

Mr. Speaker, I will offer an amendment, when the gentlewoman withdraws her objection, which was passed by the committee when the resolution was considered.

Ms. KILPATRICK. Mr. Speaker, I thank Chairman THOMAS for that explanation.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, will the gentlewoman yield?

Ms. KILPATRICK. I yield to the gentleman from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I rise today in celebration of Jack Swigert and this concurrent resolution, House Concurrent Resolution 25, which does provide for the acceptance of a statue of Mr. Swigert presented by the people of the State of Colorado for placement in National Statuary Hall.

I, along with Colorado citizens, anticipate a very moving and wonderful event for the unveiling of our second statue in the U.S. Capitol Rotunda. This tribute has particular significance to me. As some Members may know, I came to Congress, as the gentleman from California [Mr. THOMAS] indicated, in a special election in the spring of 1983, and this special election was necessary because Jack Swigert died before being sworn in as the first elected Representative in the Sixth District of Colorado. I am honored to follow in his footsteps and am excited to be part of this historic event, recognizing his contributions to both the State and the Nation.

Jack was born in Denver and excelled in both academics and athletics. After graduating from the University of Colorado at Boulder, he joined the U.S. Air Force and went on to log over 2,900 hours of flight with the Air Force, the Air National Guard, and NASA. Then in 1970 he served as command module pilot of the famed Apollo 13 mission, the one that blew a hole in its side and had to circle the Moon and came back and landed.

After he did do that, he got into politics and decided to run for Congress in 1982. It was a successful campaign. I can remember nominating him to this particular position.

This is sad simply because before he could actually take office, he passed away on December 27, 1982, and, of course, we all wanted him to at least be here long enough to take the oath of office after all of the things that he had been through.

It is clear that Jack exemplified the true American spirit. He was a competitor, he was an achiever, he was a pioneer in his field. It is with great pleasure that I take part in honoring his spirit by accepting this statue. I thank so much the Lundeen brothers who did the sculpturing, and thank the Colorado Legislature and the Jack Swigert Memorial Commission, and all my colleagues in Colorado and in the congressional delegation, for all the work we have done.

I look forward to May 22, when we will be able to celebrate the fruits of that labor. I thank very much the gentlewoman for yielding, and I thank the gentleman from California [Mr. THOMAS] for moving so quickly on this resolution.

Mr. THOMAS. If the gentlewoman will continue to yield, Mr. Speaker, I would like to take this time to briefly explain the amendment that we will shortly consider when the gentlewoman withdraws her objection.

The amendment removes section 2 of the resolution and makes a technical correction in the title. As is customary with these resolutions, section 2 of the resolution, as introduced, requested that 6,555 copies of a transcript of the ceremony be printed for use by the House of Representatives and the Senate. It was to be paid for with taxpayers' funds.

The gentleman from Colorado [Mr. DAN SCHAEFER], the sponsor of the resolution, requested that this printing request be removed from the resolution, and the amendment that we are offering does that. I just want to note that pursuant to the letter of the gentleman from Colorado, the reason we are removing the taxpayer-funded documents is that there will be a memorial document printed, but any costs associated with that memorial document will be paid for with private funds, rather than public funds. That money will come from the Jack Swigert Memorial Commission.

I thank the gentlewoman.

Ms. KILPATRICK. Mr. Speaker, with that explanation from Chairman THOMAS, as well as the gentleman from Colorado [Mr. DAN SCHAEFER], I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 25

Resolved by the House of Representatives (the Senate concurring), That (a) the statue of Jack Swigert, furnished by the State of Colorado for placement in National Statuary Hall in accordance with section 1814 of the Revised Statutes of the United States (40 U.S.C. 187), is accepted in the name of the United States, and the thanks of the Congress are tendered to the State of Colorado

for providing this commemoration of one of its most eminent personages.

(b) The State of Colorado is authorized to use the rotunda of the Capitol on May 22, 1997, at 11 o'clock, ante meridiem, for a presentation ceremony for the statue. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

(c) The statue shall be displayed in the rotunda of the Capitol for a period of not more than six months, after which period the statue shall be moved to its permanent location in National Statuary Hall.

SEC. 2. The transcript of proceedings of the ceremony shall be printed, under the direction of the Joint Committee on the Library, as a House document, with illustrations and suitable binding. In addition to the usual number, there shall be printed 6,555 copies of the document, of which 450 copies shall be for the use of the House of Representatives, 105 copies shall be for the use of the Senate, 3,500 copies shall be for the use of the Representatives from Colorado, and 2,500 copies shall be for the use of the Senators from Colorado.

SEC. 3. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the Governor of Colorado.

AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS: Page 2, strike out lines 11 through 20 (and redesignate accordingly).

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. THOMAS].

The amendment was agreed to.

The CHAIRMAN. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

TITLE AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. THOMAS: Amend the title so as to read: "Concurrent resolution providing for acceptance of a statue of Jack Swigert, presented by the State of Colorado, for placement in National Statuary Hall.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 25.

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

There was no objection.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE CONSUMER PRICE INDEX

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 93.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SOUDER] that the House suspend the rules and agree to the resolution, House Resolution 93, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 16, not voting 18, as follows:

[Roll No. 105]

YEAS—399

Abercrombie
Ackerman
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—16

Barr
Blumenauer
Boswell
Campbell
Forbes
Hall (TX)
King (NY)
McDade
Minge
Owens
Paul
Stenholm
Taylor (MS)
Taylor (NC)
Visclosky
Waters

NOT VOTING—18

Aderholt
Allen
Andrews
Archer
Becerra
Brown (OH)
Clay
Edwards
Gutierrez
Hunter
Kaptur
Kolbe
Manton
Metcalf
Rangel
Reyes
Schiff
Sessions

□ 1214

Mr. HALL of Texas, Ms. WATERS, and Mr. OWENS changed their vote from "yea" to "nay."

Messrs. GEJDENSON, GILCHREST, and PETERSON of Pennsylvania changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ALLEN. Mr. Speaker, I ask that the RECORD reflect that this morning I was unavoidably detained on rollcall vote 105, House Resolution 93, and that if I had been present, I would have voted in the affirmative.

PERSONAL EXPLANATION

Mr. BROWN of Ohio. Mr. Speaker, earlier today I was detained on official business and unfortunately was unable to cast my vote on House Resolution 93. Had I been present, I would have voted "yea" on this resolution, which expresses the sense of the House that if any adjustment is made to the consumer price index that it should be made by the Bureau of Labor Statistics.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 991

Mr. RAHALL. Mr. Speaker, on May 6, 1997, the name of the gentleman from Arizona, Mr. MATT SALMON, was inadvertently added as a cosponsor of H.R. 991 instead of adding the name of the gentleman from Texas, Mr. MAX SANDLIN.

I apologize for this unintended error and respectfully ask unanimous consent that the name of the gentleman from Arizona, Mr. MATT SALMON, be removed as cosponsor of H.R. 991 and that the name of the gentleman from Texas, Mr. MAX SANDLIN, be added as cosponsor of H.R. 991.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

HOUSING OPPORTUNITY AND RESPONSIBILITY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 133 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2.

□ 1217

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, with Mr. COMBEST (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, May 6, 1997, the amendment by the gentlewoman from Texas [Ms. JACKSON-LEE] had been disposed of and title II was open for amendment at any point.

Pursuant to the order of the Committee of that day, the following Members may offer their amendments to title II even after the reading has progressed beyond that title:

Amendment No. 51 by the gentleman from Virginia [Mr. MORAN];

Amendment No. 43 by the gentlewoman from New York [Ms. VELÁZQUEZ]; and

Amendment No. 2 by the gentleman from Texas [Mr. DELAY].

AMENDMENT NO. 5 OFFERED BY MR. FRANK OF MASSACHUSETTS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts [Mr. FRANK] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. FRANK of Massachusetts:

Page 102, strike line 1 and all that follows through line 7 of page 104, and insert the following:

SEC. 225. FAMILY RENTAL PAYMENT.

(a) RENTAL CONTRIBUTION BY RESIDENT.—A family residing in a public housing dwelling shall pay as monthly rent for the unit an amount, determined by the public housing agency, that does not exceed the greatest of the following amounts, (rounded to the nearest dollar):

(A) 30 percent of the monthly adjusted income of the family.

(B) 10 percent of the monthly income of the family.

(C) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.

(b) MINIMUM RENTAL AMOUNT.—Each public housing agency shall require

Page 105, strike line 21 and all that follows through line 19 on page 106.

Page 107, strike ", except that" on line 2 and all that follows through line 5, and insert a period.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 252, not voting 9, as follows:

[Roll No. 106]

AYES—172

Abercrombie
Allen
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—252

Ackerman
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
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
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham

LaTourette	Paxon	Sisisky
Lazio	Pease	Skeen
Leach	Peterson (MN)	Skelton
Lewis (CA)	Peterson (PA)	Smith (MI)
Lewis (KY)	Petri	Smith (NJ)
Linder	Pickering	Smith (OR)
Lipinski	Pickett	Smith (TX)
Livingston	Pitts	Smith, Linda
LoBiondo	Pombo	Snowbarger
Lofgren	Porter	Solomon
Lucas	Portman	Souder
Manzullo	Pryce (OH)	Spence
McCarthy (NY)	Quinn	Stearns
McCollum	Radanovich	Stenholm
McCrery	Ramstad	Stump
McDade	Regula	Sununu
McHugh	Riggs	Talent
McInnis	Riley	Tanner
McIntosh	Roemer	Tauzin
McKeon	Rogan	Taylor (MS)
Metcalf	Rogers	Taylor (NC)
Mica	Rohrabacher	Thomas
Miller (FL)	Ros-Lehtinen	Thornberry
Minge	Roukema	Thune
Molinari	Royce	Tiahrt
Moran (KS)	Ryun	Traficant
Moran (VA)	Salmon	Upton
Morella	Sanford	Walsh
Myrick	Saxton	Wamp
Nethercutt	Scarborough	Watkins
Neumann	Schaefer, Dan	Watts (OK)
Ney	Schaffer, Bob	Weldon (FL)
Northup	Sensenbrenner	Weldon (PA)
Norwood	Sessions	Weller
Nussle	Shadegg	White
Oxley	Shaw	Whitfield
Packard	Shays	Wicker
Pappas	Sherman	Wolf
Parker	Shimkus	Young (AK)
Paul	Shuster	Young (FL)

NOT VOTING—9

Andrews	DeFazio	Kaptur
Becerra	Edwards	Reyes
Clay	Gutierrez	Schiff

□ 1235

Ms. SANCHEZ and Mr. SNYDER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. EDWARDS. Mr. Speaker, earlier today I missed rollcall votes 105 and 106. Had I been present, I would have voted "yes" on both votes.

AMENDMENT NO. 30 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. COMBEST). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 30 offered by Ms. JACKSON-LEE of Texas:

Page 99, strike line 12 and all that follows through line 25 on page 99, and insert the following:

SEC. 223. PREFERENCES FOR OCCUPANCY.

(a) IN GENERAL.—Except for projects or portions of projects designated for occupancy pursuant to section 227 with respect to which the Secretary has determined that application of this section would result in excessive delays in meeting the housing needs of such families, each public housing agency shall establish a system for making dwelling units in public housing available for occupancy that—

(1) for not less than 50 percent of the units that are made available for occupancy in a given fiscal year, gives preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978) at the same time they are seeking assistance under this Act; and

(2) for any remaining units to be made available for occupancy, gives preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include—

(A) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities;

(B) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family;

(C) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available;

(D) assisting families that include one or more adult members who are employed; and

(E) achieving other objectives of national housing policy as affirmed by the Congress.

Page 100, line (1) strike "(c)" and insert "(b)".

Page 100, line 4, after "preferences" insert "under subsection (a)(2)".

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me say, although I appreciate very much some of the common ground that the chairman and ranking member have shared and supported amendments that I have offered regarding job training and jobs, allow me to say that the general direction of this particular legislation regarding housing I have a great disagreement with, as many of my friends and associates on this side of the aisle. One of the ones is the effort behind this particular amendment which has to do with keeping in the Federal preferences dealing with housing particularly for the poorest of the poor and homeless.

I recognize that we are looking at this issue from different colored glasses, but might I just share with colleagues that in Houston alone in October 1996 the University of Houston Center for Public Policy indicates that there are 9,216 homeless persons. It also showed in the Houston office of the Veterans' Administration that there were 9,216 individuals who are homeless, 3,500 were homeless veterans. New York City alone has 100,000 homeless families on any given night. The National Coalition for the Homeless cites that 7 million families were identified as homeless.

Therefore, my issue is that we must have a housing system that not only appeals to our working families, affordable housing, but it also responds to those individuals who need quality housing who are the poorest of the poor. It is my sense that Federal preferences heretofore had done that, allowing for local authorities to be able to address themselves to the disabled, senior citizens and as well the homeless. That is the reason as well why I spoke earlier this week on the question of one-for-one replacement, not to talk about the issues in Chicago or New York or California but to talk about the issues in cities like Houston and rural communities where the one-for-one replacement is still needed because of the low number of public housing dwelling units for the poorest of the poor, homeless individuals as well as veterans as well as the working very poor.

I would ask the gentleman from Massachusetts [Mr. KENNEDY] if he would, because this issue is so very important, HUD statistics show there is a 40-year wait for public housing in New York, a 12-year wait for public housing in Chicago, a 22-year wait in Philadelphia, a 20-year wait in Dade County, FL, and in my city alone, a large number of individuals, some 20,000, on the waiting list. I would like to see us work through this issue.

I will be withdrawing this amendment but not withdrawing my pain and my concern that the least of those, the most vulnerable, need housing.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. KENNEDY] to engage in a colloquy to try and work through this issue.

Mr. KENNEDY of Massachusetts. First of all, let me thank the gentlewoman from Texas [Ms. JACKSON-LEE] for the efforts she is making on behalf of the constituents which she represents and with regard to constituencies outside of her congressional district who also are suffering as a result of not enough affordable housing being made available in the Houston area.

This is a problem that is not just unique to Houston. The truth is that, if we look at what the gentlewoman from Texas [Ms. JACKSON-LEE] is attempting to do, her efforts are stymied largely because we simply do not have enough resources in this bill to begin to build any new units of affordable housing. This bill in a tragic sense, I think, indicts the housing policies of this country. Despite the fact that the largest single growing portion of our population is the poorest of the poor in the United States of America, this bill does not contain funding for a single new housing unit. And so when we get into very tight communities such as the Houston market, where there is very little affordable housing stock, and since we have gotten rid of the one-for-one requirement, the one-for-one requirement means, if we are going to take a housing unit out of circulation, that we have to replace it with a new housing unit so that we do not lose the

total number of units available to a local community.

While that was a positive development for many years, because of the lower funding levels, it meant that we found many housing projects throughout the country where we found boarded-up projects because the local housing authority was no longer able to afford to build a whole new housing project, and so they would have to keep the old housing projects in existence. It is a terrible dilemma.

The CHAIRMAN. The time of the gentlewoman from Texas [Ms. JACKSON-LEE] has expired.

(On request of Mr. KENNEDY of Massachusetts, and by unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 1 additional minute.)

Mr. KENNEDY of Massachusetts. Mr. Chairman, in conclusion what I would suggest to the gentlewoman from Texas is that she has done some fine work on this issue. She adds to the debate and she has, I think, brought to the floor the issue of the downside risk of the repeal of the one-for-one requirement.

I think that there are some provisions we have included in the bill that can provide some assistance in terms of mixed income housing with an amendment that the gentleman from New York [Mr. LAZIO] was willing to accept in the committee. But I do believe that this is not going to completely suffice a housing market such as the Houston market. I look forward to working with the gentlewoman from Texas [Ms. JACKSON-LEE], and I hope the gentleman from New York [Mr. LAZIO], if the chairman would just acknowledge for one moment, that in housing markets such as the Houston market, the repeal of one-for-one, while desirable as a national policy, can create difficulties in specific marketplaces where we simply do not have enough housing units to meet the needs of the very poor.

The CHAIRMAN. The time of the gentlewoman from Texas [Ms. JACKSON-LEE] has again expired.

(By unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 1 additional minute.)

Mr. KENNEDY of Massachusetts. In conclusion, I would like to suggest that I think that this is an issue that the gentleman from New York, the chairman, has shown, while a commitment to the repeal of one-for-one, a recognition that this is going to have some anomalies in terms of how this is going to affect specific communities.

I am sure the chairman of the committee as well as the ranking member would like to work with the gentlewoman from Texas [Ms. JACKSON-LEE] to try to address the specific concerns of the Houston community.

□ 1245

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. KENNEDY] and I thank the gentleman from New York [Mr. LAZIO] for what he is about to respond, and hoping that we can work through conference on this issue.

Mr. LAZIO of New York. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, let me just comment that in fact there is no doubt that we need to look to new tools to develop additional units of housing, affordable housing, wherever we can. That is really the intent of H.R. 2. Within H.R. 2 we are allowing for those buildings that are under considerable physical stress, where they really are in deep need of modernization and would otherwise be torn down that the tenants at least be given vouchers so they would be able to use over and above what we have right now, incremental vouchers, new vouchers, so that people can go out there and use them to search for housing.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. KENNEDY] for his leadership, and I know that one-for-one replacement is something we will keep working on for those kinds of communities. I thank the gentleman from Massachusetts [Mr. KENNEDY] very much for his leadership.

The CHAIRMAN. Is there objection to the gentlewoman from Texas [Ms. JACKSON-LEE] withdrawing her amendment?

There was no objection.

The CHAIRMAN. The amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE] is withdrawn.

AMENDMENTS OFFERED BY MS. VELÁZQUEZ VELAZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer two amendments, and I ask unanimous consent that amendments 43 and 44, as modified, be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Ms. Velázquez:

Page 104, lines 12 and 13, strike "not less than $25 nor more than $50" and insert "not more than $25".

Page 193, strike lines 4 and 5 and insert the following:

(B) shall be not more than $25; and

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

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

Mr. LAZIO of New York. Mr. Chairman, reserving the right to object, I ask unanimous consent, and I understand that the gentlewoman's staff and our staff have been working together to try and provide some parameters for time, and that there has been a tentative agreement that we would set the time limit at 30 minutes equally divided, half of that controlled by the gentlewoman from New York [Ms. VELÁZQUEZ] and half controlled by myself; and I make that unanimous-consent request.

Mr. Chairman, I do this for the purpose of assuring that we have this time limitation.

The CHAIRMAN. The gentleman from New York may inquire, but we can only dispose of one unanimous-consent request at a time.

Mr. LAZIO of New York. Mr. Chairman, then I reserve the right to object at this point.

Mr. Chairman, if I could just make an inquiry of the gentlewoman from New York?

The CHAIRMAN. Under the gentleman's reservation of objection the gentleman may inquire of the other side anything he needs to know to determine whether or not he will object.

Mr. LAZIO of New York. If I can inquire of the gentlewoman if that correctly reflects her understanding, that we can have a time limitation of 30 minutes, 15 minutes controlled by either side, 15 minutes controlled by myself, 15 minutes controlled by the gentlewoman from New York in order to consider her en bloc application, and I am wondering if that meets with the gentlewoman's approval?

Ms. VELÁZQUEZ. Mr. Chairman, if the gentleman will yield, I would not object to the unanimous consent request.

Mr. LAZIO of New York. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. LAZIO of New York. Mr. Chairman, I ask unanimous consent then, to ensure that there is time limitation on the en bloc amendment of 30 minutes, that 15 minutes be controlled by the gentlewoman from New York [Ms. VELÁZQUEZ] and 15 minutes controlled by myself.

The CHAIRMAN. And on all amendments thereto; is that correct?

Mr. LAZIO of New York. On all amendments thereto; yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from New York.

There was no objection.

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

Mr. Chairman, once again we are debating a housing bill that is an insult to poor families. Instead of truly helping people move into the work force, this bill includes provisions that threaten a very basic and human need, access to safe affordable and clean housing. If we are really going to help

families climb out of poverty and into lives of dignity, decency, and safety, they must have a fair chance to succeed.

Across America millions of households pay more than half of their income on rent. H.R. 2 adds to the burden on the poorest families by raising minimum rents to between $25 to $50. Fifty dollars may not seem like much, but it may force the very, very poor to choose between food and shelter.

By limiting the minimum rents to no more than $25, my amendment provides a basic protection for the most disadvantaged Americans. It is the final safety net for families that have suddenly fallen on extremely hard times. I strongly urge the adoption of these provisions.

My colleagues, families that live in public housing are willing to pay rent. But, consider the 300,000 households who are protected by my proposal. They live in absolute poverty. They are parents who have lost their jobs or have to pay unexpected medical expenses. They are families climbing out of homelessness.

The chairman of the Subcommittee on Housing and Community Opportunity often points out that H.R. 2 includes exemptions for some families. Yet, consider the context. First, the Republican Congress cuts PHA budget to the bone and now they want to force PHA's to grant exemption, exemptions that work against their own financial interests.

As if this was not bad enough, H.R. 2 forces struggling families to jump through intimidating, bureaucratic hoops to get hardship waivers. That is not a helping hand. That is harassment.

My colleagues, if this legislation passes, it will create an underclass of people that cannot even afford public housing. Worst of all, with 600,000 people already pushed into homelessness by Republican budget cuts and shortages of homeless shelters, the poorest of the poor will have no place to turn. For a country that prides itself on the American dream, we cannot allow this to happen.

Mr. Chairman, I urge all of my colleagues to support my amendment.

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

Mr. LAZIO of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, I thank the chairman for yielding this time to me. This of course is another important amendment aimed at limiting the important reforms that Chairman LAZIO and the Republicans are proposing with regard to the utilization of public housing.

What has been previously agreed to is that if an individual leaves public housing and gets employment, that the person who makes more money will be able to keep it under the provisions of this bill. Under the old system, which the gentleman from Massachusetts [Mr. FRANK] was attempting to adopt earlier with an amendment rejected by the House, as the person's income would go up, so concurrently would the amount of rent paid, which is certainly not an incentive for a family struggling to go out and try to find additional work for the family to make additional income when the rent increase takes away the extra benefit of that effort.

This amendment would then reach inside the housing authority's discretion and say that the maximum rent someone could be required to pay in a hardship circumstance would be $25 down to zero, so that we are attempting to train individuals in homeownership skills, the idea that one should work, take care of their family, and make some contribution toward one's own shelter.

The Velázquez amendment would say that any individual who has access to public housing could pay zero. If you homeowners in America have that luxury and that the proposal as put together by the chairman, ranging to $25 to $50 minimum rent, to be determined by the housing authority, would also put in the hands of the authority the ability to look at that individual and say, yes, you have an unusual circumstance and temporarily we will grant you access to housing at a minimal level. But understand, public housing is not intended to be a retirement home. This is transitional housing, and while you are here we expect you to learn what skills are required to be an effective homeowner, and making a contribution toward your own housing is certainly an important part of that lesson.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, I think this is an important amendment. I think that people perhaps are unfamiliar with exactly the kinds of circumstances that many of the very poor people that are occupying public housing units face on a day-to-day basis.

The truth is that, if we look at the kinds of people that have just lost their job or people that have had long-term unemployment, people that have had severe medical problems, if you look at the kinds of circumstances where in some States, for instance, the State of Texas, where your total welfare benefit can be as low as $188 a month, I just talked to the gentlewoman from Florida [Mrs. MEEK] and asked her what the basic welfare benefit was in the State of Florida. She said it was under $200 a month. I was wondering what, which my friend from North Carolina [Mr. WATT] suggested, the welfare benefit in the State of North Carolina might be.

Certainly it can sound like this is not very much money. But the truth of the matter is, if you look at what raising these minimum rents from $25 to $50 can actually incur, there will be over 340,000 families in these circumstances whose rents will increase by $315 a year.

That does not seem like a lot of money to people who can occupy this Chamber. But if you cannot occupy this Chamber and you look at the kinds of circumstances that people that have these very minimum incomes, that are on AFDC, this can be very hurtful. It can mean whether or not a baby is going to be fed. It can mean whether or not the medicine is going to be bought. It can mean whether or not the children are going to wake up hungry or go to bed hungry.

These are the kinds of real-world issues that I feel far too many families in these circumstances face every day. So I would hope that we can find it in our hearts to support a minimum rent of $25, but we do not have to turn around and raise that to $50.

Mr. LAZIO of New York. Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida, [Mrs. CARRIE MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentlewoman from New York [Ms. VELÁZQUEZ] for yielding the time.

Mr. Chairman, I would like to say that, No. 1, I graciously support the amendment of my colleague, the gentlewoman from New York [Ms. VELÁZQUEZ]. Like many of my colleagues in this body, I know from whence my colleague is coming. I know what the background is and the need for this amendment.

First of all, there are some false assumptions that I need to talk about quickly. One false assumption is that people are going to have jobs. That is a false assumption. My colleague wants to take care of these people who have tried very hard to get a job but who will not have a job. If they get one, it will last only 2 or 3 months or more.

The second thing the gentlewoman is trying to do is to be sure that the welfare reform bill works so that people can maintain housing and keep their quality of life going, as poor as it is. I do not want to see my colleagues put too much emphasis on the housing authorities on this bill.

I have worked with them over the years. They are good people. But many times there is too much discretion in the way they make their decisions that something that you would like to see done in terms of an exemption, two-thirds of the families that we have been talking about are affected by this.

I think the amendment is a good one, and I think that we cannot dictate according to circumstances all over this

country how much a person should pay. I thank the gentlewoman from New York [Ms. VELÁZQUEZ] for bringing this amendment to the attention of this House, and I am asking the support of my colleagues for the amendment of the gentlewoman from New York.

Mr. Chairman, I rise in support of this good amendment. We often talk about doing the right thing. Voting in support of this amendment is the right thing.

The amendment would require local housing authorities to set minimum rents of $0–$25 for public housing and assisted housing. Under the bill, minimum rents would be set between $25 and $50 monthly.

We know that some residents of public housing and assisted housing will lose their SSI benefits under the Welfare Reform Act of 1996. This would place an added burden on individuals already financially strapped and may result in the eviction of those simply unable to pay.

The Velázquez amendment does not dictate how much a tenant will pay. It recognizes that depending on the immediate circumstances, some tenants cannot afford to pay even a dollar for rent. We may not want to admit it—but there are still v-e-r-y poor people in our country.

For people with little or no income, the $25–$50 threshold required in the bill, shuts them out of the housing market. Mr. Speaker, I cannot think of a city in America that wants to increase its homeless population.

The amendment also authorizes HUD to develop exemptions for families faced with unanticipated medical expenses, families who have lost their welfare benefits, and persons unemployed.

The bill allows local public housing authorities to determine hardship exemptions. I will not comment about the myriad of exemptions and scope of some exemptions that will come out of this newly granted authority.

Mr. Chairman, approximately two-thirds of the families affected by the new minimum rent requirement would be families with children. Let's do the right thing to keep families in safe affordable housing. Support this good amendment.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1 minute to the gentlewoman from Indiana, [Ms. JULIA CARSON].

Ms. CARSON. Mr. Chairman, I thank the gentlewoman for yielding. I too want to commend the gentlewoman from New York [Ms. VELÁZQUEZ] for having the foresight, the compassion, the sensitivity, and the understanding to offer her amendment.

Prior to becoming a Member of the U.S. Congress, I headed a welfare agency in the city of Indianapolis. When I took it over, it had a $20 million deficit. When I left, it had $20 million in the bank. We took care of poor people. We got people off of welfare and put them into jobs and into training and into educational experiences.

We did not do that by being cruel. We did not do that by removing a safety net, as this bill would do ultimately; and that is to annihilate the Brooke amendment to raise from $25 to $50 a month the minimum rent that persons would have to pay in public housing.

We understand, by virtue of my past experience, that there are a lot of people that are responsible who want to take care of their families but life's circumstances do not allow them temporarily to do that. We should not pass a punitive measure against somebody who finds themselves in circumstances over which they have no control. I support the amendment enthusiastically.

□ 1300

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. JACKSON].

Mr. JACKSON of Illinois. Mr. Chairman, I want to rise in support of the Velázquez amendment, which sets a minimum rent of zero to $25 and a waiver for our Nation's most vulnerable who find themselves caught in situations of extreme hardship. I thank the gentlewoman from New York for her strong commitment to those who need our help the most and appreciate her advocacy on behalf of this critical issue.

I want to first begin with a point of clarification. Public housing, as the other side has referred to it, is not transitional housing. It is affordable housing, and it is not free housing. It is affordable housing because the private market does not build homes for poor people and that is why the Government is in the housing business.

I urge my colleagues to oppose the onerous provision of H.R. 2 which establishes a minimum rent for public housing and choice-based rental assistance recipients and provides only a voluntary waiver for hardship situations. While $25 to $50 does not seem like anything to most of us fortunate enough to have a steady stream of income, a minimum rent above $25 would pose a genuine hardship on families who are earning little or no income. This is especially true in the case of families who have lost or are at risk of losing their welfare benefits, are unemployed, are transitioning from homelessness, or are unexpectedly burdened by unanticipated medical expenses. For families caught in such desperate straits, $50 may just constitute too high a monthly expense.

Mr. Chairman, this provision could unduly burden 340,000 families across the Nation if all public housing authorities implemented this rent scheme. Two-thirds of the families affected by this would be families with young children. Last year in the State of Illinois, 4,464 families were adversely impacted by the $25 minimum rent. Doubling this figure would force our neediest constituents to survive under further strain to provide food, medicine, and clothing for their children.

Mr. Chairman, these are basic human necessities which we take for granted. In this Nation, which is considered an economic superpower in the world community, how can we demonstrate concern for those struggling to survive under such desperate conditions?

Mr. Chairman, I thank the gentlewoman from New York for offering this critical amendment and I urge my colleagues to support this measure.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands [Ms. CHRISTIAN-GREEN].

Ms. CHRISTIAN-GREEN. Mr. Chairman, I thank the gentlewoman from New York.

I rise today in support of the amendment offered by my colleague from New York and I commend her for compassion and courage in offering it.

If enacted, the Velázquez amendment would allow the Secretary of Housing and Urban Development to create certain classes of hardship and accordingly set a minimum rent under this category of no more than $25.

I come from an area, Mr. Chairman, where in recent years we have been ravished by one devastating hurricane after an another. Thousands of my constituents were left homeless and jobless after these storms. It would be unconscionable if, in the face of such unexpected and devastating loss, a family would face eviction because there was no flexibility to provide them with a period of adjustment by setting their monthly rent at a lower level than the minimum $25 that H.R. 2 would now require.

Overall, Mr. Chairman, I am deeply concerned that this bill before us today, the so-called Housing Opportunity and Responsibility Act, is yet another in a series of actions being taken against the poor of our Nation. If H.R. 2 wants to live up to its charge, then we must pass the Velázquez amendment, and I urge my colleagues to do so.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I urge adoption of the Velázquez amendment. Some of the reasons have been stated and I will briefly allude to them.

The fact is that both amounts of money we are talking about are very small: $25 a month, $50 a month. But for people who do not have it, because they are suddenly faced with an unanticipated medical emergency, because they are in transition between homelessness and having housing, because they have just lost their job and for some reason cannot get unemployment insurance, because they have applied for public benefits but the public benefits have not come through yet, because they have lost their welfare benefits, and we have in recent years set up a myriad of ways that people can lose their welfare benefits even when they should not, because they are unemployed, for whatever reason, $25 can

be a huge amount of money. There is no reason to change the current situation where the public housing authority can set the minimum and substitute a system where the person has to seek a waiver, go through the bureaucracy, and wait the time at a time of crisis in their own lives. There is no reason to do that. It really adds nothing to this bill.

Second, I want to address myself to the comment made by the gentleman from Louisiana who said public housing is not permanent housing, it is not a retirement home, it is transitional housing. Well, it is not transitional housing for many people. People in public housing whose only sin is that they are making $5 or $6 or $7 an hour, they are making minimum wage or they are making $7 an hour and they cannot afford housing on the permanent market, that is permanent housing for them.

Until we decide that the minimum wage ought to be a living wage, ought to be a wage where people can afford housing on the private market, and I think the people on that side of the aisle do not agree with that kind of philosophy, I do not think anybody would vote for a $12 or $13 minimum wage, I am not too sure how many people would on this side either, but until we do something like that, there are going to be millions of people in this country working 40 or 50 hours a week, paying taxes and not having enough money to get housing on the private market. For them, public housing is the only possible permanent home.
home.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I rise in support of the Velázquez amendment and urge my colleagues to support the amendment.

The bill provides for a minimum rent of $50 per month. Ms. Velázquez's amendment provides for a minimum rent of $25 a month. And I am sure, and I am glad, that most American citizens probably cannot relate to what all this bickering is about. Twenty five dollars a month, $325 a year, is peanuts to most people, and that is fortunate in America.

But there are some of us who remember when $325 a year, $25 a month, was a major, major difference between our ability to eat and not eat. And it is important to us to look out for people in our country who for whatever reason, often for reasons not of their own making, they are between jobs, they are down on their luck, so to speak, as we used to say, and they simply do not have the money.

So, we are talking about for some people in this country, the issue of whether they have housing or whether they do not have housing, whether we put more people on the street or whether we provide some compassion and provisions for them to have a roof above their heads.

For that reason, I want to applaud the gentlewoman from New York, [Ms. VELÁZQUEZ], for bringing this amendment to us and encourage my colleagues in the House to support the amendment. It will make this bill a better bill.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself 1 minute.

My colleagues, once again we are telling disadvantaged families that they do not matter, that they are expendable, all in the name of a capital gains tax cut.

I call on all of my colleagues to ask themselves if there is anyplace left for compassion in this Congress.

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

Mr. LAZIO of New York. Mr. Chairman, I yield myself such time as I may consume.

Let us, if we can, fix the parameters of this debate. Under the terms of H.R. 2 we ask every tenant to pay a minimum rent. That minimum rent can be set by the local housing authority at between $25 and $50 per month. There are people who object to the fact that a minimum rent is established, or that it is established at that range from $25 to $50 a month.

The amendment of the gentlewoman from New York would suggest that the minimum rent ought to be from $0 to $25, so that their minimum rent might be $5 a month or $4 a month.

The very idea that we have been talking about so much over the last 4 days is that we need additional help for more people, that there is need out there for more people. But when we say to a family who receives public housing, and very often the additional benefit of utilities, that they do not have to do anything, they do not even have to pay a minimum rent of $25 or $30 or $35, what we are saying to the people who are on the waiting list, to people who cannot even get into public housing to begin with and who are paying market rate is, they are going to have to wait out there a whole lot longer because this family is not willing to do its fair share.

Now, in this bill we establish exemptions. We establish exemptions. We say in the bill, and I am going to read exactly from the bill, if I can:

> The local housing agency shall grant an exemption to any family unable to pay such amount because of financial hardship which shall include situations in which, one, the family has lost eligibility or is awaiting an eligibility determination for Federal, State or local programs. Two, the family would be evicted as a result of the imposition of the minimum rent requirement under the subsection. Three, the income of the family has decreased because of changed circumstances, because of loss of employment. Four, a death in the family has occurred, as well as other situations as may be determined by the agency.

So, we are providing the broad exemptions that families might possibly need if they were faced with the hardship of having to pay $25 or $30 or $35 or $40 or $50 as a minimum rent for the use of their unit, and in addition to the utilities.

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

Mr. LAZIO of New York. I yield to the gentleman from Louisiana.

Mr. BAKER. Mr. Chairman, I just wanted to return briefly for a moment to the issue of permanent versus temporary housing. The gentleman raised the issue in his remarks that it is difficult to justify to the hundreds of people who may be waiting, who are willing and anxious to occupy the housing and pay $25, where an individual who may be fully competent of paying is paying nothing; that this bill then sets in motion a minimum requirement that just like a homeowner, they must make some contribution toward their shelter.

It is not that we are going to be callous. We are going to look at their individual situation, and if they have a problem, tell us about it. Sure, we might waive the rent requirement for a month or two while they get back on their feet, but again, this is not a permanent situation.

The gentleman earlier said that public housing should be permanent. There could be no more significant philosophic difference on this issue than that single point. Taxpayers will agree to help a person who is having a bad day and say to them, "We will help you with social programs, with shelter, whatever it takes to get you back on your feet, but we are not going to pay for a retirement community where you refuse to take actions to improve your own circumstance."

Tolerance is fine, help is fine, but saying to someone that they make no contribution toward their housing at all, forever, there is a limit to which taxpayers will not go, and I think we are finding it.

I thank the gentleman for yielding.

Mr. LAZIO of New York. Mr. Chairman, I again yield myself such time as I may consume, to note that the amendment of the gentlewoman from New York goes beyond once again where the administration is, because the administration sets a minimum rent of $25. It also goes beyond, interestingly, where the Democratic substitute is at right now, and I would suggest that maybe the Democratic substitute, for those people who would support this amendment, perhaps they would want to amend their substitute now to reflect the gentlewoman's concerns.

The reality is; the reality is that we are asking for a sense of mutual obligation and responsibility just like we

were talking about in terms of community service and community work; that yes, they will be helped; yes, they will receive an apartment; yes, they often will receive their utilities also paid for, but in return we ask for something. We are going to ask for community service. We are going to ask them, subject to their ability to pay and their ability to ask for a hardship exemption if they cannot pay, to pay at least a minimum rent of between $25 and $50.

□ 1315

I wonder what kind of a statement that makes. If we say that people cannot pay that, that that is asking too much, what kind of a statement does that make to people that are equally poor, have an equally low income, and are not fortunate enough to be in public housing? They may be paying not $25 or $50 but they may be paying $200 or $300 or $400 monthly, or maybe more than that, for their apartment to keep a roof over their heads.

I know the gentleman from Massachusetts had a question. I will be happy to yield briefly for the gentleman, because again, we both had equal time. We have limited time here.

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

Mr. LAZIO of New York. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. I appreciate the gentleman yielding.

Mr. Chairman, I do not think people are objecting, Mr. Chairman, to the idea that there should be minimum rents. I think what the gentlewoman from New York is trying to point out is that there are circumstances in places like Texas, I would venture to guess maybe Louisiana, I know in Florida, where the monthly payments on welfare are below $200; in the State of Texas, it is $188; that becomes a significant portion, and going up to $50 in those circumstances really can mean whether the child is going to get enough food to eat.

Mr. LAZIO of New York. Reclaiming my time, Mr. Chairman, that is precisely why we have hardship exemptions which would allow a housing authority in a special case to say you might not have to pay anything at all that particular month, but for those people who have the capacity to pay, that they will pay.

I just want to mention, many people are familiar with PHDAA, an association of relatively large housing authorities. They went out and surveyed their membership. About 800 housing authorities, local housing authorities, charged more than $25. In no case, in no case, none, did anyone get evicted because of a failure to pay that minimum rent.

So the idea, the concept, that people are going to be thrown out because they are being asked to pay $25 a month or $30 a month with hardship exemptions if they have special circumstances is not factually correct. It is not borne out by the evidence. It does identify the division between the two sides of this debate, between those who say that people ought to be asked to do what they possibly can, and those people who think that people ought to be asked to do nothing.

Ms. VELÁZQUEZ. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, does the gentleman think that the local housing authorities are facing budgetary constraints? And this is not that they do not want to grant exemptions, just that we cannot trust that they will do that because they are facing fiscal and budgetary constraints.

Mr. LAZIO of New York. If I can reclaim my time, I think once again the information that I just provided to this body was that over half of the membership of large housing authorities who charge minimum rents in excess of $25, in their experience, universally, not one person was evicted who was asked to pay minimum rent. In this case, in addition to that, we have in this bill protections, additional protections, additional exemptions that can be given to a family in time of particular need. It is the least that we can ask.

Even the administration, and I would suggest even the Democratic substitute, acknowledges the fact that a minimum needs to be set, and it mocks the idea of having a minimum when we say that the minimum ought to be between zero and $25. For that reason, I would have to oppose the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer amendment No. 51.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 51 offered by Mr. MORAN of Virginia:

Page 99, after line 11, insert the following new subsection:

(e) OPTIONAL TIME LIMITATION ON OCCUPANCY BY FAMILIES FOR PHA'S WITH WAITING LISTS OF 1 YEAR OR LONGER.—

(1) 5-YEAR LIMITATION.—A public housing agency described in paragraph (2) may, at the option of the agency and on an agency-wide basis, limit the duration of occupancy in public housing of each family to 60 consecutive months. Occupancy in public housing occurring before the effective date of this Act shall not count toward such 60 months.

(2) APPLICABILITY ONLY TO PHA'S WITH WAITING LISTS OF 1 YEAR OR LONGER.—A public housing agency described in this paragraph is an agency that, upon the conclusion of the 60-month period referred to in paragraph (1) for any family, has a waiting list for occupancy in public housing dwelling units that contains a sufficient number of families such that the last family on such list who will be provided a public housing dwelling unit will be provided the unit 1 year or more from such date (based on the turnover rate for public housing dwelling units of the agency).

(3) EXCEPTIONS FOR WORKING, ELDERLY, AND DISABLED FAMILIES.—The provisions of paragraph (1) shall not apply to—

(A) any family that contains an adult member who, during the 60-month period referred to in such paragraph, obtains employment; except that, if at any time during the 12-month period beginning upon the commencement of such employment, the family does not contain an adult member who has employment, the provisions of paragraph (1) shall apply and the nonconsecutive months during which the family did not contain an employed member shall be treated for purposes of such paragraph as being consecutive;

(B) any elderly family; or

(C) any disabled family.

(4) PREFERENCES FOR FAMILIES MOVING TO FIND EMPLOYMENT.—A public housing agency may, in establishing preferences under section 321(d), provide a preference for any family that—

(A) occupied a public housing dwelling unit owned or operated by a different public housing agency, but was limited in the duration of such occupancy by reason of paragraph (1) of this subsection; and

(B) is determined by the agency to have moved to the jurisdiction of the agency to obtain employment.

(5) PREFERENCES FOR FAMILIES MOVING TO FIND EMPLOYMENT.—A public housing agency may, in establishing preferences under section 321(d), provide a preference for any family that—

(A) occupied a public housing dwelling unit owned or operated by a different public housing agency, but was limited in the duration of such occupancy by reason of paragraph (1) of this subsection; and

(B) is determined by the agency to have moved to the jurisdiction of the agency to obtain employment.

(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) EMPLOYMENT.—The term "employment" means employment in a position that—

(i) is not a job training or work program required under a welfare program; and

(ii) involves an average of 20 or more hours of work per week.

(B) WELFARE PROGRAM.—The term "welfare program" means a program for aid or assistance under a State program funded under part A of title IV of the Social Security Act (as in effect before or after the effective date of the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

Mr. MORAN of Virginia. Mr. Chairman, Federal low-income housing assistance programs were originally designed to be transitional, helping people find temporary, decent shelter. They were never intended to be permanent. The reality today, though, is that many families know no other experience than a public housing environment.

Today, in too many cases this housing assistance is creating reverse incentives for its beneficiaries to improve their situation and become self-

sufficient. According to HUD, 40 percent of the residents of public housing leave within 3 years, 31 percent leave within 10 years, and about one-third live in public housing for more than 10 years.

This amendment will not affect the majority of residents, and it completely exempts the elderly and the handicapped. But because of the Federal budget constraints that have been imposed, we cannot increase the number of federally assisted low-income housing units. It is not going to happen.

We need to determine how, though, we can justify extending indefinitely public housing assistance to residents who may be capable of improving their economic well-being while we deny others who are equally deserving.

The fact is that there are three times as many people on waiting lists equally deserving as there are people in public-assisted housing units. Within my congressional district there is a 2-year waiting list and it has been closed, leaving thousands of families, equally deserving, unable to even apply.

This is not fair. Across the country thousands of well-deserving and eligible families, many spending more than 50 percent of their income on substandard housing, have been told they have to wait at least 2 years, and then hopefully they can get on a waiting list.

Mr. Chairman, we do not know what the total of such families are, precisely, but we know that in most cases waiting lists are closed. Let us be fair. Let us open up access to more deserving families. Across the Nation 13 million households were eligible to receive Federal housing assistance last year, slightly more than 4 million. Less than a third did receive such assistance.

The amendment that I am offering gives local housing authorities the option, the option, it is up to them, to impose a 5-year time limit on those individuals and families who are not elderly, not disabled, and who are not already employed at least 20 hours a week. The amendment builds on the self-sufficiency contract that is part of this bill.

Adoption of this amendment is going to enable local housing authorities to use an incentive to encourage tenants to use assisted housing in the way it was originally intended. Since housing assistance to some tenants could be limited to 5 years, a higher number of rental units can be recycled more frequently. Publicly assisted housing can be more accessible to more people.

It is the fairest thing we can do. I urge support for the amendment.

Mr. LAZIO of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to say that the gentleman from Virginia needs to be complimented by this body. There are few Members who are more active in the area of housing, who understand the consequences of bad housing, than the gentleman from Virginia who has in his background experience at the local level in dealing with housing authorities and with assisted housing.

The gentleman's points are valid points. The wait lists are long. The amount of people that are there in public housing for a generation, permanently, are too great. In fact, I think what the gentleman's amendment seeks to do is to end the sense of generations being in public housing. It is a statement that public housing should not be considered a way of life, but sort of a step up or transition to self-sufficiency, in an effort to try and recycle that benefit so as many Americans as possible can use it in their time of need.

Unfortunately, the way the system works now, when a family moves into public housing there is not much incentive for them to move back out, back into the system, because we do not deal with the root causes of poverty. We just deal with the symptom of shelter. In that sense, because there is no incentive or no time limitation, no encouragement to move through the system, there are literally millions of Americans that are waiting and do not have the benefit of having a subsidized unit.

I wanted to just, if I could, yield to the gentleman from Virginia, if he could just speak to exactly the tenants that might be affected by this. Would it be just anybody? Would it be seniors and elderly? I wonder if he can just describe that.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, no seniors would be affected, no people who are disabled, no one who would have difficulty in achieving an income. There are a lot of people in assisted housing that simply do not have the ability to support themselves because of disabilities, or because of age or whatever. This only applies to families that are able bodied, that have been able to use assisted housing for 5 years, and it also only applies, I would emphasize to the chairman and thank him for his kind words, it only applies if there are waiting lists.

If there are no waiting lists, in other words, if there are no equally deserving families waiting to use that unit, it does not apply, so that it takes no assisted housing units off the market. All it does is to expand assisted housing to more people who are equally deserving.

Mr. LAZIO of New York. I thank the gentleman. Let me say, Mr. Chairman, I think this is a very valid, very progressive amendment. I think the gentleman speaks to some of the concerns that many of us have in terms of assuring that more Americans have the benefit of public housing.

I should say, I am concerned a bit about the fact that we were not able to move last year's bill through conference to the President's desk for signature. I think we tried to certainly develop some broad reforms that boldly moved forward and helped to transform the entire population in public housing.

I am a little concerned about the amendment offered by the gentleman. While I think it is a very good amendment, I am only concerned that it not be sort of veto bait, or it would stop the momentum of the reforms we have in this bill, because we are trying so desperately in this bill to create that sense of self-sufficiency, self-reliance, of building work skills, of transitioning back to the work force where people can have the choice of moving out of public housing and into the work force, where they make their own choices for housing, employment, and different choices for their family.

So I just voice that concern, which is not a policy concern, but really a concern that may affect the ability for us to move this bill through the Chamber, given what I anticipate might be the opposition by some Members from the Democratic side of the aisle and potentially over in the other body, and perhaps in the White House.

I just lay that out there as a potential concern. At the same time, I want to compliment the gentleman from Virginia for his work on this amendment, for his work on housing in general, for his sense that public housing ought to be a place where there are law-abiding people, where we do not tolerate failure and do not tolerate crime, and it is integrated into the community, and is looked upon not as something that people run away from or look the other way from, but in fact as a magnet to help strengthen the community.

Mr. MORAN of Virginia. If the gentleman will continue to yield, Mr. Chairman, so it is the gentleman's considered judgment that even though this amendment might pass in the House, that it might jeopardize final enactment of this bill?

If that is the case, Mr. Chairman, that is an important consideration. I want to hear from my colleague, the gentleman from Massachusetts [Mr. KENNEDY], on the bill, but I will respond subsequently.

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

First of all, Mr. Chairman, I want to just acknowledge the fine work that my good friend, the gentleman from Virginia [Mr. MORAN], has done on housing and a number of other issues in his career in the Congress. I appreciate it, and have worked very closely with him on a number of issues.

This is one where we have a very, very strong disagreement in terms of the ultimate resolution or consequences that this amendment could bring down upon what I believe are some of the most poor and vulnerable people in this country.

While I think he does this with the best instincts to try to prod people to go back to work, I think the difficulties that this could ultimately impose on the poorest people in this country are really almost unimaginable, when I think of the innovation and creativity that this body has come up with over the course of the last few days on this housing bill alone, to find every way possible to punish the poor, in the thought that somehow if we punish them enough that they will finally work their way out of poverty.

□ 1330

That is ultimately the goal of these amendments. It is not just this amendment. It is the amendment to go minimum rents $25 to $50. It is a very tough amendment to argue against. My colleagues say there is a lot of very poor people that are on welfare. They get $188 a month, going up to $50, that is going to take away some of their food. My colleagues say, no, if we raise that minimum rent, boy, we will get them to go to work; let us go out and kick out all the poor people.

In this bill we are going to go from 75 percent targeting to people with 30 percent of median incomes or less. That is the very poor people of the country. That is the vast majority of people that live in public housing, the vast majority of people that get section 8 vouchers. And yet what we are going to do is say, no, with the rate, the way to fix the public housing programs is to jack up the rents on those people that are there, and then what we are going to do is bring in a lot wealthier people to occupy the units.

It is a brave new world we are establishing. Boy oh boy, I will bet that sooner or later we are going to have public housing that looks terrific. The only trouble is no poor people are going to live in it. What we are going to end up with is a system where we have made ourselves look good and we can walk around and boast about the fact that we have gotten all these work incentives for the poor which basically take a cattle prod to the poor. And then what we are going to do, because the justification of actually lowering the dollar amounts on how much goes into the housing bill is because of the budget agreement, which is an argument we went through late last evening.

The truth of the matter is we are going to spend under this budget agreement $35 billion on capital gains tax reductions. So there is an incentive. We have an incentive for the rich to get richer by giving them an incentive to get richer by lowering their taxes. But the way we are going to get the poor to work harder is to get the cattle prod out and give them a little jab. That is essentially what this bill does. That is effectively what I think the ultimate resolution of this amendment will be, that we are going to then go out, if we look at the facts, it would be one thing if we had millions of people in public housing who were just sitting there languishing.

The amendment, I believe, addresses a nonexistent problem. The median stay of households in public housing is 4 years. Most households, over 71 percent, live in public housing less than 10 years. And 40 percent stay less than 3 years. Those who remain longer are generally the elderly and disabled. I am sure that we could go out, and I am sure the gentleman from Virginia [Mr. MORAN] has found individual cases where there is an exemption. That should not be. But to try and suggest that at a period of time where we have a new welfare reform bill which is going to throw people off of welfare, where we have a legal immigrant program which is essentially going to deny legal immigrants even SSI benefits, and then we are going to come back and now say we are going to take away your housing, I mean, what are we going to do?

Then we have also cut the homeless budget by 25 percent. So what we end up with is people on the street. Then everybody drives around in their cars and they look around at all the people on the street and think, gosh, that is terrible. My goodness, this homeless situation is terrible in America, and, boy, I wish those people down in Washington would pass some laws to take care of homelessness because this is a shame.

I mean, Mr. Chairman, ultimately it is unpopular for us to stand up here and fight on all these issues. It sounds like we are defending the status quo. But underneath the status quo is a basic fundamental judgment that we say we are going to take care of poor and vulnerable people. If they want to castigate us as looking like all we are trying to maintain is the status quo because we try to stand up for very poor and vulnerable people, so be it. But that is what the value judgment is. And I am proud to stand with it.

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

Mr. Chairman, we have been debating the housing bill now for quite a few days. And it seems like we spend most of our time, probably 99 percent of our time, debating two versions of government housing. For those of us who believe that more houses and better houses could be produced in a free market and in a free society, it is a bit frustrating. But the debate goes on.

I sincerely believe that everybody in the debate has the best of motivation, the desire is to be compassionate and to help poor people get homes. The tragedy is that we have been doing this for a good many years and have had very little success and this attempt now, again well motivated, to change the management of the housing program to a more local management program really leaves a lot to be desired.

On one side of the aisle we find out that the biggest complaint is that we do not have enough money, and the complaint is that the budget has been greatly reduced. But the way I read the figures, the numbers are going up over $5 billion this year, so there is going to be a lot more money in this HUD program compared to last. It is said on the other side that we are going to save $100 million in management at the same time we are spending a lot more money. Much has been said about how do we protect the rights of the individuals receiving public housing, and I have recognized that this is a very serious concern. Yet when we have a government program, it is virtually impossible to really honor and respect. And straightforward protection of individual rights is very difficult.

I am concerned about the victims' rights, those people who lose their income, who lose their job because of government spending and government programs. It is said that we are trying very hard to take money from the rich and give it to the poor so the poor have houses. But quite frankly, I am convinced that most of the taxation comes from poor people. We have a regressive tax system. We have a monetary system where inflation hurts the poor more than the rich. And there is a transfer of wealth to government housing programs.

Unfortunately, everybody agrees the poor are not getting houses. And so many of the wealthy benefit from these programs. It is the rich beneficiaries, those who receive the rents and those who get to build the buildings are the most concerned that this government housing program continues.

Until we recognize the failure of government programs, I think we are going to continue to do the wrong things for a long time to come because there is no evidence on either side that we are really challenging the concept of public housing. There are two visions of one type of program on government housing. Some day somewhere along the line in this House we have to get around to debating the vision of a free society, a free society with a free market and low taxes, and a sound monetary system will provide more houses for the poor than any other system.

Much has been said about the corporate welfare and much has been recognized that corporations do benefit. But I am on the record very clearly that I would not endorse anything where a corporation or the wealthy get

direct benefits from these government programs, whether it is the housing program or Eximbank or whatever.

I am also very cautious to define corporate welfare somewhat differently than others. Because when we give somebody a tax break and allow them to keep some of their own money, this is not welfare. It is when we take money from the poor people and allow it to gravitate into the hands of the wealthy, that is the welfare that has to be addressed and that is the part that we seem to fail to look at endlessly whether it is the housing program or any other program.

It is true, I think that it is very possible for all of us to have a vision which is designed to be compassionate and concerned about the injustice in the system. I do not challenge the views of anyone, but neither should my motivations be challenged because I come down on the side of saying that a free society and a constitutional government would not accept any of these programs because they have not worked and they continue to fail.

The real cost of this program and all programs unfairly falls on the poor people. Yet we continue endlessly to do this and we never suggest that maybe, maybe there is an alternative to what we are doing. We have so many amendments tinkering with how we protect the rights of the poor. I think that inevitably is going to fail because we are not smart enough to tinker with the work requirements.

Quite frankly, I have been supportive of a work requirement as an agreement to come into public housing, very, very reluctantly and not enthusiastically, because I am convinced that the management of a work program of 8 hours a month is going to outcost everything that we are doing.

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

Mr. Chairman, I rise in opposition to this amendment. I would like to simply address something the gentleman from Texas said a moment ago. He said that while if we lower taxes, if we had lower interest rates, if we changed our general economics, you would do a lot for housing for the poor. Maybe and maybe not. I am not going to address that.

The fact of the matter is that whatever we do in our general policies, maybe eventually if we change them in the right direction, I tend not to agree with the gentleman as to what the right direction is, maybe eventually we would be providing, the private sector would be building more housing for the poor. It would be very nice if that were so and if that could be made so.

But the fact is that today in many, many areas of the country, maybe in the whole country, I do not know, but certainly in many areas of the country, it is simply impossible for the private sector without subsidy to produce housing affordable by low income working people, not to mention by people who may be on public assistance or on SSI or disabled or what have you.

It simply is impossible in many areas of the country today for the private sector, and they will tell you that, any builder in New York or any place, in many places, they will tell you that given the cost of building, the cost of land, the cost of money, the cost of labor, et cetera, they cannot build housing other than for upper income people and maybe the top of the middle class, certainly not for low income people.

As long as that is true, we are going to need government subsidized housing programs for low income and moderate income people. That was the basic idea of the Housing Act of 1937. That is still the basic idea of public policy today. I hope it remains so, that it is ultimately our responsibility, as a collective people represented through government, to help those who, given their best efforts, cannot help themselves.

Should we require their best efforts? Of course. But for those who may be working at minimum wage jobs or even at jobs that pay $10 an hour, $11 an hour and cannot afford housing in the private market, we should help them. It is our duty to help them, to the extent that they cannot help themselves, because everybody has a right, assuming they contribute what they can, to food and clothing and shelter. I would add health care.

Public housing may have been conceived in 1937 initially. I was not around. It may have been conceived initially as temporary until the Depression was over, until things changed. But the fact is that we need public housing today and we need it on a permanent basis for many, many people who cannot and will not be able to earn enough money to get out of it, to pay for decent housing in the private sector.

For working people, this amendment is a bad idea if it were applied to them, but there are also people who are not working. What about someone who is 45 years old and is disabled? We just passed welfare reform. Under the welfare reform bill, people are mandatorily kicked off the welfare rolls after 5 years.

Now, we did not pass sufficient job training funding to enable these people, all of them or most of them, to get decent jobs. We did not pass sufficient child care funding to enable single mothers with children, all of them or most of them, to be able to take care, to have someplace secure to put their kids in a decent environment when they go to work. Those things we did not do. They are too expensive.

Now to add that someone who is on welfare, who is trying to get off welfare, who is trying to get a job and we have a 4.9-percent official unemployment rate in this country, the lowest it has been in decades, but what is really a 12-percent unemployment rate, if we count the people who are not officially in the job market because they have been discouraged, they could not find a job for 6 months or 8 months or 1 year and stop looking, for the people who never got into it because they have no marketable skills where they dropped out of high school and they are on street corners hustling or something, if we count those who are employed part time when they need full-time jobs, the real unemployment rate in terms of people who need jobs, want jobs and cannot get them is probably closer to 12 percent.

As long as that is true, until we find a way of telling Mr. Greenspan that when we have higher economic growth, it is a good thing, not a terrible thing, that creating more jobs or higher wages is a good thing, not a bad thing, until we change those policies, until we can generate jobs for whoever wants them, we have a need for welfare programs. We have a need for low income housing programs without time cutoffs and certainly that goes for working people.

So let us address those problems. Because what happens under the Moran amendment to someone who may not be working, is trying to find a job and cannot and is thrown off welfare and is thrown out of their home?

Mr. Chairman, I submit this is not a very well targeted amendment, although well intentioned.

□ 1345

Mr. KENNEDY of Massachusetts. Mr. Chairman, I ask unanimous consent that, first, the gentleman from Virginia [Mr. MORAN], be given 3 minutes to respond to some of the issues that have been brought up and perhaps be able to work out this amendment with the gentleman from New York [Mr. LAZIO].

I also would have a question of the gentleman from New York with regard to what the gentleman's intentions are for the rest of the day, if in fact this amendment can be dealt with in the next few minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts [Mr. KENNEDY] that the gentleman from Virginia [Mr. MORAN] be given 3 additional minutes to speak in addition to the time he has already spent?

There was no objection.

Mr. KENNEDY of Massachusetts. Mr. Chairman, would it be appropriate if we could clarify with the gentleman from New York what the intent of the chairman would be for the next half-hour or so?

The CHAIRMAN. The gentleman from Virginia [Mr. MORAN] has the floor.

Mr. LAZIO of New York. Mr. Chairman, may I be recognized for a unanimous-consent request?

The CHAIRMAN. Does the gentleman from Virginia [Mr. MORAN] yield for a unanimous-consent request?

Mr. MORAN of Virginia. Mr. Chairman, I yield to the chairman for a unanimous-consent request.

Mr. LAZIO of New York. I thank the gentleman for yielding. I was going to ask for a unanimous consent to give us additional time, but if I can take some of the gentleman's time, I will be glad to extend that if he needs additional time.

It is my intention that we rise in about 10 or 15 minutes, or 2 p.m., to conduct the other business of the House and that we reconvene.

I know the gentleman is enthusiastically looking forward to finishing this bill, and we are hopeful of addressing it again tomorrow and I hope we can wrap it up tomorrow.

I think the gentleman's amendment which might be next might be best held off until tomorrow. I am happy to start it now, but I think for continuity purposes, the gentleman from Massachusetts may want to have his amendment heard tomorrow.

Mr. KENNEDY of Massachusetts. If the gentleman from Virginia will yield, but the only concern I have is that sometimes what we might see happen is not get to this targeting amendment tomorrow but rather sometime on Tuesday, prior to when the vast majority of the membership comes back.

I know that the floor manager over there, from the office of the gentleman from Texas [Mr. ARMEY], would never think of doing such a thing, but nevertheless we might fall into that category, which would be unfortunate because I do think this gets to the heart of the debate.

So I want to work out with the chairman some assurance that we would have an opportunity to debate this.

Mr. LAZIO of New York. Mr. Chairman, I cannot imagine that virtually every Member on this side of the aisle would not want to be present to hear the gentleman from Massachusetts make his case on his amendment, so I think the gentleman's concern is probably unfounded.

Mr. KENNEDY of Massachusetts. I thank the gentleman, Mr. Chairman.

Mr. MORAN of Virginia. Mr. Chairman, I ask unanimous consent to strike the requisite number of words, at which time I think we would conclude debate on this amendment. That would be my purpose.

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

There was no objection.

Mr. MORAN of Virginia. Mr. Chairman, first of all, as the gentleman from Massachusetts suggested, there are some issues that need to be cleared up.

My two friends and colleagues on my side have entered a good deal of rhetorical information into this debate. Some of it was not specific to this particular amendment, though, I would suggest. In the first place, we talk about punishing low-income families, and I would suggest to the gentleman from Massachusetts that while there are 1 million low-income families who are in publicly assisted housing, there are three times that many who are equally low-income who are not in publicly assisted housing. And if we are talking about punishing people, those people are effectively being punished by being denied assisted housing, and that is the purpose of this amendment.

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

Mr. MORAN of Virginia. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I would point out briefly that that gets to the heart of this debate, and that is ultimately what H.R. 2 is about, is picking up the pieces after we have cut the housing budget in this country last year with no debate, no hearings, from $28 to $20 billion.

When we do that, then ultimately we are not going to ever get to meeting the needs of the millions of families that the gentleman is talking about. But the gentleman's amendment is not going to do anything more to meet those needs.

Mr. MORAN of Virginia. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments on the underlying bill. They are not particularly pertinent to this particular amendment because this amendment opens up access to people. It only applies when there are equally deserving people who have not had the access to assisted housing, many of whom are paying 50 percent of their income.

I would suggest to my colleague from New York, when he talks about handicapped people, and so on, being affected, they are all exempted from this amendment, the handicapped, the elderly. There are a number of exceptions. I would suggest to my colleague to read the amendment and he will be assured of that fact.

Now, let me address myself to the comments of the chairman. The chairman suggested that passage of this bill might be jeopardized by inclusion of this amendment. I think this amendment might very well pass within the House, but he may very well be right and I would accept his judgment in terms of enactment. I want this bill to be enacted, and I would just like to take a couple of minutes to tell my colleagues why.

I lost a very close friend in Alexandria who was a police officer. He was shot in a public housing project at a place, a unit, which had been dealing drugs for years. It was an intergenerational business, apparently. We were helpless to do anything about it. And I will never forget his wife at the hospital looking up to me and saying how will I ever tell his two sons that daddy will never come home again. And the reason that happened is because we did not act responsibly on publicly assisted housing.

This does. The many screening and eviction procedures that are allowed under this bill are absolutely necessary, and the people that they benefit the most, the most, are people living in publicly assisted communities. They desperately need the housing authority to exercise responsible judgments and to exclude people who are going to tear down the quality of life for a lot of them, to exclude criminals and drug addicts and people who are drug dealers. That needs to be done. It will be done by this bill.

There are a number of other provisions in this bill which make a lot of sense. They are more important than this particular provision, as important as I think this is. I will leave this at this, this amendment, but I would ask the gentleman from New York, if I do withdraw it at this time, would the gentleman attempt to get some type of pilot demonstration program within the conference that might enable us to get some experience on how such an amendment would work?

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, I think that the gentleman's idea and obviously his passion are right on the mark, and I will do whatever I can to work in conference, if this bill is adopted, and I am hopeful it will, with the VA's strong support, that we will be able to begin to make some headway and create some type of demonstration project so that we can establish that this works just the way the gentleman says it will.

I will also commit to the gentleman that if for any reason that does not bear fruit, and I am hopeful that it will and I will fight for it, that we will hold hearings, my committee will hold hearings and I hope the gentleman will testify before that hearing.

Mr. MORAN of Virginia. With that assurance, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Virginia [Mr. MORAN] is withdrawn.

Mr. BLUNT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to come and speak in favor of the amendment. I would now speak in favor of the demonstration project idea if the amendment is to be withdrawn. I was the chairman of the Missouri Housing Development Commission for some

time. We worked with housing authorities. We had even in 1985 a billion dollars in bonded obligations to assist with housing.

I think we stand here today with a housing program that is well-intentioned but has failed. It has become a place where people go and stay not because of disability or age or infirmity, but because of no sense of being able to leave that system or having to leave that system.

I think the idea of rotating people in and out of public housing, being sure that all people have access to public housing that would qualify for public housing, and also effectively giving notice to people who move into public housing on the first day that they are likely not there to stay, that there is some end in sight to their being in that particular subsidized environment, is a positive aspect.

I think the problems we see in public housing with crime, with a lack of role model, with a life based on that kind of dependence on a government program, is largely eliminated by the concept that the gentleman from Virginia has offered as an amendment and now offers as a pilot program, that we look to see what would happen if, in fact, people are on a list, not only a waiting list for public housing, but a list that would have some opportunity to really become part of that system, a system where people are moving in and out as they move toward more and more independence; a system which, as the bill of the gentleman from New York, allows people to seek greater economic opportunity without being penalized for that opportunity by agreeing to a fixed rent instead of 30 percent of their income. Whatever their income is, of course, they would still have that option.

I think we see a housing program, again, that was well-intentioned, that has not worked as it should work. It is time to make that program work better. And under this proposal, this is not a proposal that eliminates funding for public housing. In fact, this is a proposal that substantially increases funding for public housing. It just makes a commitment for housing that works better; makes a commitment for housing that does not lead to the many problems that people that are in public housing today have been victims of.

I think the bill is a good bill. I thought the amendment was a good amendment. I want to speak in favor of the gentleman's idea that there be a pilot in this bill that would allow that to become part of what we are trying to do in housing and let us see if it works, Mr. Chairman.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I want to thank the gentleman for his remarks, his insight and for sharing his experience with the Missouri Housing Authority with us. I thank the gentleman for his remarks.

The CHAIRMAN. If there are no further amendments to title II, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—CHOICE-BASED RENTAL HOUSING AND HOMEOWNERSHIP ASSISTANCE FOR LOW-INCOME FAMILIES

SUBTITLE A—ALLOCATION

SEC. 301. AUTHORITY TO PROVIDE HOUSING ASSISTANCE AMOUNTS.

To the extent that amounts to carry out this title are made available, the Secretary may enter into contracts with public housing agencies for each fiscal year to provide housing assistance under this title.

SEC. 302. CONTRACTS WITH PHA'S.

(a) CONDITION OF ASSISTANCE.—The Secretary may provide amounts under this title to a public housing agency for a fiscal year only if the Secretary has entered into a contract under this section with the public housing agency, under which the Secretary shall provide such agency with amounts (in the amount of the allocation for the agency determined pursuant to section 304) for housing assistance under this title for low-income families.

(b) USE FOR HOUSING ASSISTANCE.—A contract under this section shall require a public housing agency to use amounts provided under this title to provide housing assistance in any manner authorized under this title.

(c) ANNUAL OBLIGATION OF AUTHORITY.—A contract under this title shall provide amounts for housing assistance for 1 fiscal year covered by the contract.

(d) ENFORCEMENT OF HOUSING QUALITY REQUIREMENTS.—Each contract under this section shall require the public housing agency administering assistance provided under the contract—

(1) to ensure compliance, under each housing assistance payments contract entered into pursuant to the contract under this section, with the provisions of the housing assistance payments contract included pursuant to section 351(c)(4); and

(2) to establish procedures for assisted families to notify the agency of any noncompliance with such provisions.

SEC. 303. ELIGIBILITY OF PHA'S FOR ASSISTANCE AMOUNTS.

The Secretary may provide amounts available for housing assistance under this title pursuant to the formula established under section 304(a) to a public housing agency only if—

(1) the agency has submitted a local housing management plan to the Secretary for such fiscal year and applied to the Secretary for such assistance;

(2) the plan has been determined to comply with the requirements under section 106 and the Secretary has not notified the agency that the plan fails to comply with such requirements;

(3) no member of the board of directors or other governing body of the agency, or the executive director, has been convicted of a felony; and

(4) the agency has not been disqualified for assistance pursuant to title V.

SEC. 304. ALLOCATION OF AMOUNTS.

(a) FORMULA ALLOCATION.—

(1) IN GENERAL.—When amounts for assistance under this title are first made available for reservation, after reserving amounts in accordance with subsections (b)(3) and (c), the Secretary shall allocate such amounts, only among public housing agencies meeting the requirements under this title to receive such assistance, on the basis of a formula that is established in accordance with paragraph (2) and based upon appropriate criteria to reflect the needs of different States, areas, and communities, using the most recent data available from the Bureau of the Census of the Department of Commerce and the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (or any consolidated plan incorporating such strategy) for the applicable jurisdiction. The Secretary may establish a minimum allocation amount, in which case only the public housing agencies that, pursuant to the formula, are provided an amount equal to or greater than the minimum allocation amount, shall receive an allocation.

(2) REGULATIONS.—The formula under this subsection shall be established by regulation issued by the Secretary. Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, any proposed regulation containing such formula shall be issued pursuant to a negotiated rulemaking procedure under subchapter III of chapter 5 of such title and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.

(b) ALLOCATION CONSIDERATIONS.—

(1) LIMITATION ON REALLOCATION FOR ANOTHER STATE.—Any amounts allocated for a State or areas or communities within a State that are not likely to be used within the fiscal year for which the amounts are provided shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities within the same State (that are eligible for amounts under this title) cannot use the amounts within the same fiscal year.

(2) EFFECT OF RECEIPT OF TENANT-BASED ASSISTANCE FOR DISABLED FAMILIES.—The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving amounts under this title for the agency or in determining the amount of such assistance to be provided to the agency.

(3) EXEMPTION FROM FORMULA ALLOCATION.—The formula allocation requirements of subsection (a) shall not apply to any assistance under this title that is approved in appropriation Acts of uses that the Secretary determines are incapable of geographic allocation, including amendments of existing housing assistance payments contracts, renewal of such contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the housing assistant payments contract, assistance to prevent displacement from public or assisted housing or to provide replacement housing in connection with the demolition or disposition of public housing, assistance for relocation from public housing, assistance in connection with protection of crime witnesses, assistance for conversion from leased housing contracts under section 23 of the United States Housing Act of 1937 (as in effect before the enactment of the Housing and Community Development Act of 1974), and assistance in support of the property disposition and portfolio management functions of the Secretary.

(c) RECAPTURE OF AMOUNTS.—

(1) AUTHORITY.—In each fiscal year, from any budget authority made available for assistance under this title or section 8 of the

United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of this Act) that is obligated to a public housing agency but remains unobligated by the agency upon the expiration of the 8-month period beginning upon the initial availability of such amounts for obligation by the agency, the Secretary may deobligate an amount, as determined by the Secretary, not exceeding 50 percent of such unobligated amount.

(2) USE.—The Secretary may reallocate and transfer any amounts deobligated under paragraph (1) only to public housing agencies in areas that the Secretary determines have received less funding than other areas, based on the relative needs of all areas.

SEC. 305. ADMINISTRATIVE FEES.

(a) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall establish fees for the costs of administering the choice-based housing assistance program under this title.

(2) FISCAL YEAR 1998.—

(A) CALCULATION.—For fiscal year 1998, the fee for each month for which a dwelling unit is covered by a contract for assistance under this title shall be—

(i) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(ii) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units—

(I) for the first 600 units, 7.65 percent of the base amount; and

(II) for any additional dwelling units under the program, 7.0 percent of the base amount.

(B) BASE AMOUNT.—For purposes of this paragraph, the base amount shall be the higher of—

(i) the fair market rental established under section 8(c) of the United States Housing Act of 1937 (as in effect immediately before the effective date of the repeal under section 601(b) of this Act) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(ii) the amount that is the lesser of (I) such fair market rental for fiscal year 1994 or (II) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(3) SUBSEQUENT FISCAL YEARS.—For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(4) INCREASE.—The Secretary may increase the fee is necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(b) FEE FOR PRELIMINARY EXPENSES.—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(1) the costs of preliminary expenses, in the amount of $500, for a public housing agency, but only in the first year that the agency administers a choice-based housing assistance program under this title, and only if, immediately before the effective date of this Act, the agency was not administering a tenant-based rental assistance program under the United States Housing Act of 1937 (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(3) extraordinary costs approved by the Secretary.

(c) TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.—In each fiscal year, if any public housing agency provides tenant-based rental assistance under section 8 of the United States Housing Act of 1937 or housing assistance under this title on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdictional of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

SEC. 306. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for providing public housing assistance under this title, such sums as may be necessary for each of fiscal years 1998, 2000, 2001, and 2002 to provide amounts for incremental assistance under this title, for renewal of expiring contracts under section 302 of this Act and renewal under this title of expiring contracts for tenant-based rental assistance under section 8 of the United States Housing Act of 1937 (as in effect the effective date of the repeal under section 601(b) of this Act), and for replacement needs for public housing under title II.

(b) ASSISTANCE FOR DISABLED FAMILIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for choice-based housing assistance under this title to be used in accordance with paragraph (2), $50,000,000 for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.

(2) USE.—The Secretary shall provide amounts made available under paragraph (1) to public housing agencies only for use to provide housing assistance under this title for nonelderly disabled families (including such families relocating pursuant to designation of a public housing development under section 227 or the establishment of occupancy restrictions in accordance with section 658 of the Housing and Community Development Act of 1992 and other nonelderly disabled families who have applied to the agency for housing assistance under this title).

(3) ALLOCATION OF AMOUNTS.—The Secretary shall allocate and provide amounts made available under paragraph (1) to public housing agencies as the Secretary determines appropriate based on the relative levels of need among the authorities for assistance for families described in paragraph (1).

(c) ASSISTANCE FOR WITNESS RELOCATION.—Of the amounts made available for choice-based housing assistance under this title for each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for such housing assistance for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement and prosecutive agencies.

SEC. 307. CONVERSION OF SECTION 8 ASSISTANCE.

(a) IN GENERAL.—Any amounts made available to a public housing agency under a contract for annual contributions for assistance under section 8 of the United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of this Act) that have not been obligated for such assistance by such agency before such effective date shall be used to provide assistance under this title, except to the extent the Secretary determines such use is inconsistent with existing commitments.

(b) EXCEPTION.—Subsection (a) shall not apply to any amounts made available under a contract for housing constructed or substantially rehabilitated pursuant to section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983.

SEC. 308. RECAPTURE AND REUSE OF ANNUAL CONTRACT PROJECT RESERVES UNDER CHOICE-BASED HOUSING ASSISTANCE AND SECTION 8 TENANT-BASED ASSISTANCE PROGRAMS.

To the extent that the Secretary determines that the amount in the reserve account for annual contributions contracts (for housing assistance under this title or tenant-based assistance under section 8 of the United States Housing Act of 1937) that is under contract with a public housing agency for such assistance is in excess of the amounts needed by the agency, the Secretary shall recapture such excess amount. The Secretary may hold recaptured amounts in reserve until needed to enter into, amend, or renew contracts under this title or to amend or renew contracts under section 8 of such Act for tenant-based assistance with any agency.

SUBTITLE B—CHOICE-BASED HOUSING ASSISTANCE FOR ELIGIBLE FAMILIES

SEC. 321. ELIGIBLE FAMILIES AND PREFERENCES FOR ASSISTANCE.

(a) LOW-INCOME REQUIREMENT.—Housing assistance under this title may be provided only on behalf of a family that—

(1) at the time that such assistance is initially provided on behalf of the family, is determined by the public housing agency to be a low-income family; or

(2) qualifies to receive such assistance under any other provision of Federal law.

(b) INCOME TARGETING.—Of the families initially assisted under this title by a public housing agency in any year, not less than 40 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families. The Secretary may establish income ceiling higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(c) REVIEWS OF FAMILY INCOMES.—

(1) IN GENERAL.—Reviews of family incomes for purposes of this title shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

(2) PROCEDURES.—Each public housing agency administering housing assistance under this title shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving housing assistance from the agency is complete and accurate.

(d) PREFERENCES FOR ASSISTANCE.—

(1) AUTHORITY TO ESTABLISH.—Any public housing agency that receives amounts under this title may establish a system for making housing assistance available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics.

(2) CONTENT.—Each system of preferences established pursuant to this subsection shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 106(e) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, public housing agencies involved in the selection of tenants under the provisions of this title should adopt preferences for individuals who are victims of domestic violence.

(e) PORTABILITY OF HOUSING ASSISTANCE.—

(1) NATIONAL PORTABILITY.—An eligible family that is selected to receive or is receiving assistance under this title may rent any eligible dwelling unit in any area where a program is being administered under this title. Notwithstanding the preceding sentence, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency. The agency for the jurisdiction into which the family moves shall have the responsibility for administering assistance for the family.

(2) SOURCE OF FUNDING FOR A FAMILY THAT MOVES.—For a family that has moved into the jurisdiction of a public housing agency and that, at the time of the move, has been selected to receive, or is receiving, assistance provided by another agency, the agency for the jurisdiction into which the family has moved may, in its discretion, cover the cost of assisting the family under its contract with the Secretary or through reimbursement from the other agency under that agency's contract.

(3) AUTHORITY TO DENY ASSISTANCE TO CERTAIN FAMILIES WHO MOVE.—A family may not receive housing assistance as provided under this subsection if the family has moved from a dwelling unit in violation of the lease for the dwelling unit.

(4) FUNDING ALLOCATIONS.—In providing assistance amounts under this title for public housing agencies for any fiscal year, the Secretary may give consideration to any reduction or increase in the number of resident families under the program of an agency in the preceding fiscal year as a result of this subsection.

(f) CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE.—A public housing agency shall be subject to the restrictions regarding release of information relating to the identity and new residence of any family receiving housing assistance who was a victim of domestic violence that are applicable to shelters pursuant to the Family Violence Prevention and Services Act. The agency shall work with the United States Postal Service to establish procedures consistent with the confidentiality provisions in the Violence Against Women Act of 1994.

SEC. 322. RESIDENT CONTRIBUTION.

(a) AMOUNT.—

(1) MONTHLY RENT CONTRIBUTION.—An assisted family shall contribute on a monthly basis for the rental of an assisted dwelling unit an amount that the public housing agency determines is appropriate with respect to the family and the unit, but which—

(A) shall not be less than the minimum monthly rental contribution determined under subsection (b); and

(B) shall not exceed the greatest of—

(i) 30 percent of the monthly adjusted income of the family;

(ii) 10 percent of the monthly income of the family; and

(iii) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.

(2) EXCESS RENTAL AMOUNT. In any case in which the monthly rent charged for a dwelling unit pursuant to the housing assistance payments contract exceeds the applicable payment standard (established under section 353) for the dwelling unit, the assisted family residing in the unit shall contribute (in addition to the amount of the monthly rent contribution otherwise determined under paragraph (1) for such family) such entire excess rental amount.

(b) MINIMUM MONTHLY RENTAL CONTRIBUTION.—

(1) IN GENERAL.—The public housing agency shall determine the amount of the minimum monthly rental contribution of an assisted family (which rent shall include any amount allowed for utilities), which—

(A) shall be based upon factors including the adjusted income of the family and any other factors that the agency considers appropriate;

(B) shall be not less than $25, nor more than $50; and

(C) may be increased annually by the agency, except that no such annual increase may exceed 10 percent of the amount of the minimum monthly contribution in effect for the preceding year.

(2) HARDSHIP PROVISIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a public housing agency shall grant an exemption in whole or in part from payment of the minimum monthly rental contribution established under this paragraph to any assisted family unable to pay such amount because of financial hardship, which shall include situations in which (i) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program; (ii) the family would be evicted as a result of imposition of the minimum rent; (iii) the income of the family has decreased because of changed circumstance, including loss of employment; and (iv) a death in the family has occurred; and other situations as may be determined by the agency.

(B) WAITING PERIOD.—If an assisted family requests a hardship exemption under this paragraph and the public housing agency reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. An assisted family may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the assisted family thereafter demonstrates that the financial hardship is of a long-term basis, the agency shall retroactively exempt the family from the applicability of the minimum rent requirement for such 90-day period.

(c) TREATMENT OF CHANGES IN RENTAL CONTRIBUTION.—

(1) NOTIFICATION OF CHANGES.—A public housing agency shall promptly notify the owner of an assisted dwelling unit of any change in the resident contribution by the assisted family residing in the unit that takes effect immediately or at a later date.

(2) COLLECTION OF RETROACTIVE CHANGES.—In the case of any change in the rental contribution of an assisted family that affects rental payments previously made, the public housing agency shall collect any additional amounts required to be paid by the family under such change directly from the family and shall refund any excess rental contribution paid by the family directly to the family.

(d) PHASE-IN OF RENT CONTRIBUTION INCREASES.—

(1) IN GENERAL.—Except as provided in paragraph (2), for any family that is receiving tenant-based rental assistance under section 8 of the United Stats Housing Act of 1937 upon the initial applicability of the provisions of this title to such family, if the monthly contribution for rental of an assisted dwelling unit to be paid by the family upon such initial applicability is greater than the amount paid by the family under the provisions of the United States Housing Act of 1937 immediately before such applicability, any such resulting increase in rent contribution shall be—

(A) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more of such contribution before initial applicability; and

(B) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent of such contribution before initial applicability.

(2) EXCEPTION.—The minimum rent contribution requirement under subsection (b)(1) shall apply to each family described in paragraph (1) of this subsection, notwithstanding such paragraph.

SEC. 323. RENTAL INDICATORS.

(a) IN GENERAL.—The Secretary shall establish and issue rental indicators under this section periodically, but not less than annually, for existing rental dwelling units that are eligible dwelling units. The Secretary shall establish and issue the rental indicators by housing market area (as the Secretary shall establish) for various sizes and types of dwelling units.

(b) AMOUNT.—For a market area, the rental indicator established under subsection (a) for a dwelling unit of a particular size and type in the market area shall be a dollar amount that reflects the rental amount for a standard quality rental unit of such size and type in the market area that is an eligible dwelling unit.

(c) EFFECTIVE DATE.—The Secretary shall cause the proposed rental indicators established under subsection (a) for each market area to be published in the Federal Register with reasonable time for public comment, and such rental indicators shall become effective upon the date of publication in final form in the Federal Register.

(d) ANNUAL ADJUSTMENT.—Eash rental indicator in effect under this section shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so that the indicators will be current for the year to which they apply, in rents for existing rental dwelling units of various sizes and types in the

market area suitable for occupancy by families assisted under this title.

SEC. 324. LEASE TERMS.

Rental assistance may be provided for an eligible dwelling unit only if the assisted family and the owner of the dwelling unit enter into a lease for the unit that—

(1) provides for a single lease term of 12 months and continued tenancy after such term under a periodic tenancy on a month-to-month basis;

(2) contains terms and conditions specifying that termination of tenancy during the term of a lease shall be subject to the provisions set forth in sections 642 and 643; and

(3) is set forth in the standard form, which is used in the local housing market area by the owner and applies generally to any other tenants in the property who are not assisted families, together with any addendum necessary to include the many terms required under this section.

A lease may include any addenda appropriate to set forth the provisions under this title.

SEC. 325. TERMINATION OF TENANCY.

Each housing assistance payments contract shall provide that the owner shall conduct the termination of tenancy of any tenant of an assisted dwelling unit under the contract in accordance with applicable State or local laws, including providing any notice of termination required under such laws.

SEC. 326. ELIGIBLE OWNERS.

(a) OWNERSHIP ENTITY.—Rental assistance under this title maybe provided for any eligible dwelling unit for which the owner is any public agency, private person or entity (including a cooperative), nonprofit organization, agency of the Federal Government, or public housing agency.

(b) INELIGIBLE OWNERS.—

(1) IN GENERAL.—Notwithstanding subsection (a), a public housing agency—

(A) may not enter into a housing assistance payments contract (or renew an existing contract) covering a dwelling unit that is owned by an owner who is debarred, suspended, or subject to limited denial of participation under part 24 of title 24, Code of Federal Regulations;

(B) may prohibit, or authorize the termination or suspension of, payment of housing assistance under a housing assistance payments contract in effect at the time such debarment, suspension, or limited denial or participation takes effect.

If the public housing agency takes action under subparagraph (B), the agency shall take such actions as may be necessary to protect assisted families who are affected by the action, which may include the provision of additional assistance under this title to such families.

(2) PROHIBITION OF SALE OR RENTAL TO RELATED PARTIES.—The Secretary shall establish guidelines to prevent housing assistance payments for a dwelling unit that is owned by any spouse, child, or other party who allows an owner described in paragraph (1) to maintain control of the unit.

SEC. 327. SELECTION OF DWELLING UNITS.

(a) FAMILY CHOICE.—The determination of the dwelling unit in which an assisted family resides and for which housing assistance is provided under this title shall be made solely by the assisted family, subject to the provisions of this title and any applicable law.

(b) DEED RESTRICTIONS.—Housing assistance may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. Nothing in this section may be construed to affect the provisions of applicability of the Fair Housing Act.

SEC. 328. ELIGIBLE DWELLING UNITS.

(a) IN GENERAL.—A dwelling unit shall be an eligible dwelling unit for purposes of this title only if the public housing agency to provide housing assistance for the dwelling unit determines that the dwelling unit—

(1) is an existing dwelling unit that is not located within a nursing home or the grounds of any penal, reformatory, medical, mental, or similar public or private institution; and

(2) complies—

(A) in the case of a dwelling unit located in a jurisdiction which has in effect laws, regulations, standards, or codes regarding habitability of residential dwellings, with such applicable laws, regulations, standards, or codes; or

(B) in the case of a dwelling unit located in a jurisdiction which does not have in effect laws, regulations, standards, or codes described in subparagraph (A), with the housing quality standards established under subsection (c).

Each public housing agency providing housing assistance shall identify, in the local housing management plan for the agency, whether the agency is utilizing the standard under subparagraph (A) or (B) of paragraph (2).

(b) DETERMINATIONS.—

(1) IN GENERAL.—A public housing agency shall make the determinations required under subsection (a) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit.

(2) EXPEDITIOUS INSPECTION.—Inspections of dwelling units under this subsection shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency. The performance of the agency in meeting the 15-day inspection deadline shall be taken into account in assessing the performance of the agency.

(c) FEDERAL HOUSING QUALITY STANDARDS.—The Secretary shall establish housing quality standards under this subsection that ensure that assisted dwelling units are safe, clean, and healthy. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 232(b). The Secretary shall differentiate between major and minor violations of such standards.

(d) ANNUAL INSPECTIONS.—Each public housing agency providing housing assistance shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contracts for the unit to determine whether the unit is maintained in accordance with the requirements under subsection (a)(2). The agency shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 541.

(e) INSPECTION GUIDELINES.—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this title.

(f) RULE OF CONSTRUCTION.—This section may not be construed to prevent the provision of housing assistance in connection with supportive services for elderly or disabled families.

SEC. 329. HOMEOWNERSHIP OPTION.

(a) IN GENERAL.—A public housing agency providing housing assistance under this title may provide homeownership assistance to assist eligible families to purchase a dwelling unit (including purchase under lease-purchase homeownership plans).

(b) REQUIREMENTS.—A public housing agency providing homeownership assistance under this section shall, as a condition of an eligible family receiving such assistance, require the family to—

(1) demonstrate that the family has sufficient income from employment or other sources (other than public assistance), as determined in accordance with requirements established by the agency; and

(2) meet any other initial or continuing requirements established by the public housing agency.

(c) DOWNPAYMENT REQUIREMENT.—

(1) IN GENERAL.—A public housing agency may establish minimum downpayment requirements, if appropriate, in connection with loans made for the purchase of dwelling units for which homeownership assistance is provided under this section. If the agency establishes a minimum downpayment requirement, the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase, subject to the requirement of paragraph (2).

(2) DIRECT FAMILY CONTRIBUTION.—In purchasing housing pursuant to this section subject to a downpayment requirement, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(d) INELIGIBILITY UNDER OTHER PROGRAMS.—A family may not receive homeownership assistance pursuant to this section during any period when assistance is being provided for the family under other Federal homwownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

SEC. 330. ASSISTANCE FOR RENTAL OR MANUFACTURED HOMES.

(a) AUTHORITY.—Nothing in this title may be construed to prevent a public housing agency from providing housing assistance under this title on behalf of a low-income family for the rental of—

(1) a manufactured home that is the principal residence of the family and the real property on which the home is located; or

(2) the real property on which is located a manufactured home, which is owned by the family and is the principal residence of the family.

(b) ASSISTANCE FOR CERTAIN FAMILIES OWNING MANUFACTURED HOMES.—

(1) AUTHORITY.—Notwithstanding section 351 or any other provision of this title, a public housing agency that receives amounts under a contract under section 302 may enter into a housing assistance payment contract to make assistance payments under this title to a family that owns a manufactured home, but only as provided in paragraph (2).

(2) LIMITATIONS.—In the case only of a low-income family that owns a manufactured home, rents the real property on which it is located, and to whom housing assistance under this title has been made available for the rental of such property, the public housing agency making such assistance available shall enter into a contract to make housing assistance payments under this title directly to the family (rather than to the owner of such real property) if—

(A) the owner of the real property refuses to enter into a contract to receive housing assistance payments pursuant to section 351(a);

(B) the family was residing in such manufactured home on such real property at the time such housing assistance was initially made available on behalf of the family;

(C) the family provides such assurances to the agency, as the Secretary may require, to ensure that amounts from the housing assistance payments are used for rental of the real property; and

(D) the rental of the real property otherwise complies with the requirements for assistance under this title.

A contract pursuant to this subsection shall be subject to the provisions of section 351 and any other provisions applicable to housing assistance payments contracts under this title, except that the Secretary may provide such exceptions as the Secretary considers appropriate to facilitate the provisions of assistance under this subsection.

SUBTITLE C—PAYMENT OF HOUSING ASSISTANCE ON BEHALF OF ASSISTED FAMILIES

SEC. 351. HOUSING ASSISTANCE PAYMENTS CONTRACTS.

(a) IN GENERAL.—Each public housing agency that received amounts under a contract under section 302 may enter into housing assistance payments contracts with owners of existing dwelling units to make housing assistance payments to such owners in accordance with this title.

(b) PHA ACTING AS OWNER.—A public housing agency may enter into a housing assistance payments contract to make housing assistance payments under this title to itself (or any agency or instrumentality thereof) as the owner of dwelling units (other than public housing), and the agency shall be subject to the same requirements that are applicable to other owners, except that the determinations under section 328(a) and 354(b) shall be made by a competent party not affiliated with the agency, and the agency shall be responsible for any expenses of such determinations.

(c) PROVISIONS.—Each housing assistance payments contract shall—

(1) have a term of not more than 12 months;

(2) require that the assisted dwelling unit may be rented only pursuant to a lease that complies with the requirements of section 324;

(3) comply with the requirements of sections 325, 642, and 643 (relating to termination of tenancy);

(4) require the owner to maintain the dwelling unit in accordance with the applicable standards under section 328(a)(2); and

(5) provide that the screening and selection of eligible families for assisted dwelling units shall be the function of the owner.

SEC 352. AMOUNT OF MONTHLY ASSISTANCE PAYMENT.

(a) UNITS HAVING GROSS RENT EXCEEDING PAYMENT STANDARD.—In the case of a dwelling unit bearing a gross rent that exceeds the payment standard established under section 353 for a dwelling unit of the applicable size and located in the market area in which such assisted dwelling unit is located, the amount of the monthly assistance payment shall be the amount by which such payment standard exceeds the amount of the resident contribution determined in accordance with section 322(a)(1).

(b) SHOPPING INCENTIVE FOR UNITS HAVING GROSS RENT NOT EXCEEDING PAYMENT STANDARD.—In the case of an assisted family renting an eligible dwelling unit bearing a gross rent that does not exceed the payment standard established under section 353 for a dwelling unit of the applicable size and located in the market area in which such assisted dwelling unit is located, the following requirements shall apply:

(1) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—The amount of the monthly assistance payment for housing assistance under this title on behalf of the assisted family shall be the amount by which the gross rent for the dwelling unit exceeds the amount of the resident contribution.

(2) ESCROW OF SHOPPING INCENTIVE SAVINGS.—An amount equal to 50 percent of the difference between payment standard and the gross rent for the dwelling unit shall be placed in an interest bearing escrow account on behalf of such family on a monthly basis by the public housing agency. Amounts in the escrow account shall be made available to the assisted family on an annual basis.

(3) DEFICIT REDUCTION.—The public housing agency making housing assistance payments on behalf of such assisted family in a fiscal year shall reserve from amounts made available to the agency for assistance payments for such fiscal year an amount equal to the amount described in paragraph (2). At the end of each fiscal year, the Secretary shall recapture any such amounts reserved by public housing agencies and such amounts shall be covered into the General Fund of the Treasury of the United States.

For purposes of this section, in the case of a family receiving homeownership assistance under section 329, the term "gross rent" shall mean the homeownership costs to the family as determined in accordance with guidelines of the Secretary.

SEC. 353. PAYMENT STANDARDS.

(a) ESTABLISHMENT.—Each public housing agency providing housing assistance under this title shall establish payment standards under this section for various areas, and sizes and types of dwelling units, for use in determining the amount of monthly housing assistance payment to be provided on behalf of assisted families.

(b) USE OF RENTAL INDICATORS.—The payment standard for each size and type of housing for each market area shall be an amount that is not less than 80 percent, and not greater than 120 percent, of the rental indicator established under section 323 for such size and type for such area.

(c) REVIEW.—If the Secretary determines, at any time, that a significant percentage of the assisted families who are assisted by a public housing agency and are occupying dwelling units of a particular size are paying more than 30 percent of their adjusted incomes for rent, the Secretary shall review the payment standard established by the agency for such size dwellings. If, pursuant to the review, the Secretary determines that such payment standard is not appropriate to serve the needs of the low-income population of the jurisdiction served by the agency (taking into consideration rental costs in the area), as identified in the approved community improvement plan of the agency, the Secretary may require the public housing agency to modify the payment standard.

SEC. 354. REASONABLE RENTS.

(a) ESTABLISHMENT.—The rent charged for a dwelling unit for which rental assistance is provided under this title shall be established pursuant to negotiation and agreement between the assisted family and the owner of the dwelling unit.

(b) REASONABLENESS.—

(1) DETERMINATION.—A public housing agency providing rental assistance under this title for a dwelling unit shall, before commencing assistance payments for a unit (with respect to initial contract rents and any rent revisions), determine whether the rent charged for the unit exceeds the rents charged for comparable units in the applicable private unassisted market.

(2) UNREASONABLE RENTS.—If the agency determines that the rent charged for a dwelling unit exceeds such comparable rents, the agency shall—

(A) inform the assisted family renting the unit that such rent exceeds the rents for comparable unassisted units in the markets; and

(B) refuse to provide housing assistance payments for such unit.

SEC. 355. PROHIBITION OF ASSISTANCE FOR VACANT RENTAL UNITS.

If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payments contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

SUBTITLE D—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 371. DEFINITIONS.

For purposes of this title:

(1) ASSISTED DWELLING UNIT.—The term "assisted dwelling unit" means a dwelling unit in which an assisted family resides and for which housing assistance payments are made under this title.

(2) ASSISTED FAMILY.—The term "assisted family" means an eligible family on whose behalf housing assistance payments are made under this title or who has been selected and approved for housing assistance.

(3) CHOICE-BASED.—The term "choice-based" means, with respect to housing assistance, that the assistance is not attached to a dwelling unit but can be used for any eligible dwelling unit selected by the eligible family.

(4) ELIGIBLE DWELLING UNIT.—The term "eligible dwelling unit" means a dwelling unit that complies with the requirements under section 328 for consideration as an eligible dwelling unit.

(5) ELIGIBLE FAMILY.—The term "eligible family" means a family that meets the requirements under section 321(a) for assistance under this title.

(6) HOMEOWNERSHIP ASSISTANCE.—The term "homeownership assistance" means housing assistance provided under section 329 for the ownership of a dwelling unit.

(7) HOUSING ASSISTANCE.—The term "housing assistance" means choice-based assistance provided under this title on behalf of low-income families for the rental or ownership of an eligible dwelling unit.

(8) HOUSING ASSISTANCE PAYMENTS CONTRACT.—The term "housing assistance payments contract" means a contract under section 351 between a public housing agency (or the Secretary) and an owner to make housing assistance payments under this title to the owner on behalf of an assisted family.

(9) PUBLIC HOUSING AGENCY.—The terms "public housing agency" and "agency" have

the meaning given such terms in section 103, except that the terms include—

(A) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for housing assistance under this title in an efficient manner;

(B) any other entity that, upon the effective date of this Act, was administering any program for tenant-based rental assistance under section 8 of the United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of this Act), pursuant to a contract with the Secretary or a public housing agency; and

(C) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement this title, or is not performing effectively—

(i) the Secretary or another entity that by contract agrees to receive assistance amounts under this title and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under this title; or

(ii) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under this title, without regard to any otherwise applicable limitations on its area of operation.

(10) OWNER.—The term "owner" means the person or entity having the legal right to lease or sublease dwelling units. Such term includes any principals, general partners, primary shareholders, and other similar participants in any entity owning a multifamily housing project, as well as the entity itself.

(11) RENT.—The terms "rent" and "rental" include, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(12) RENTAL ASSISTANCE.—The term "rental assistance" means housing assistance provided under this title for the rental of a dwelling unit.

SEC. 372. RENTAL ASSISTANCE FRAUD RECOVERIES.

(a) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary shall permit public housing agencies administering housing assistance under this title to retain, out of amounts obtained by the authorities from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

(1) 50 percent of the amount actually collected; or

(2) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

(b) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. If the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

(c) RECOVERY.—Amounts may be recovered under this section—

(1) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner;

(2) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 110; or

(3) through an agreement between the parties.

SEC. 373. STUDY REGARDING GEOGRAPHIC CONCENTRATION OF ASSISTED FAMILIES.

(a) IN GENERAL.—The Secretary shall conduct a study of the geographic areas in the State of Illinois served by the Housing Authority of Cook County and the Chicago Housing Authority and submit to the Congress a report and a specific proposal, which addresses and resolves the issues of—

(1) the adverse impact on local communities due to geographic concentration of assisted households under the tenant-based housing programs under section 8 of the United States Housing Act of 1937 (as in effect upon the enactment of this Act) and under this title; and

(2) facilitating the deconcentration of such assisted households by providing broader housing choices to such households.

The study shall be completed, and the report shall be submitted, not later than 90 days after the date of the enactment of this Act.

(b) CONCENTRATION.—For purposes of this section, the term "concentration" means, with respect to any area within a census tract, that—

(1) 15 percent or more of the households residing within such area have incomes which do not exceed the poverty level; or

(2) 15 percent or more of the total affordable housing stock located within such area is assisted housing.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 374, STUDY REGARDING RENTAL ASSISTANCE.

The Secretary shall conduct a nationwide study of the choice-based housing assistance program under this title and the tenant-based rental assistance program under section 8 of the United States Housing Act of 1937 (as in effect pursuant to section 601(c) and 602(b)). The study shall, for various localities—

(1) determine who are the providers of the housing in which families assisted under such programs reside;

(2) describe and analyze the physical and demographic characteristics of the housing in which such assistance is used, including, for housing in which at least one such assisted family resides, the total number of units in the housing and the number of units in the housing for which such assistance is provided;

(3) determine the total number of units for which such assistance is provided;

(4) describe the durations that families remain on waiting lists before being provided such housing assistance; and

(5) assess the extent and quality of participation of housing owners in such assistance programs in relation to the local housing market, including comparing—

(A) the quality of the housing assisted to the housing generally available in the same market; and

(B) the extent to which housing is available to be occupied using such assistance to the extent to which housing is generally available in the same market.

The Secretary shall submit a report describing the results of the study to the Congress not later than the expiration of the 2-year period beginning on the date of the enactment of this Act.

Mr. LAZIO of New York. 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. ROGERS] having assumed the chair, Mr. GOODLATTE, 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. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, had come to no resolution thereon.

FLOOD PREVENTION AND FAMILY PROTECTION ACT OF 1997

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 142 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 142

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. 478) to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that Act in building, operating, maintaining, or repairing flood control projects, facilities, or structures. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. 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. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER], pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 142 is an open rule providing for consideration of H.R. 478, the Flood Prevention and Family Protection Act of 1997. This rule provides for 1 hour of general debate divided equally between the chairman and the ranking minority member of the Committee on Resources.

House Resolution 142 makes in order the Committee on Resources amendment in the nature of a substitute as an original bill for the purpose of amendment.

□ 1400

The rule also provides that the Committee on Resources amendment in the nature of a substitute shall be considered as read.

Mr. Speaker, this rule continues the approach of according priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. It is not a requirement, but I believe it will facilitate consideration of amendments.

Finally, House Resolution 142 provides for one motion to recommit with or without instructions, as is the right of the minority Members of the House.

Mr. Speaker, this is a standard open rule and the Rules Committee has ensured that all Members who wish to modify the bill through the amendment process have every opportunity to offer their amendments.

The legislation that this rule brings to the floor will amend the Endangered Species Act of 1973 to improve the ability of individuals, local, State, and Federal agencies to comply with the act in building, operating, maintaining, or repairing flood control projects, facilities, or structures. In short, H.R. 478 will simply allow flood control experts the ability to repair and maintain existing man-made flood control structures in order to help protect American citizens and their homes, businesses, and farms from the destruction of rising flood waters.

Let me be very clear. We all support species protection, and the Endangered Species Act has been instrumental in the preservation of a number of threatened species since becoming law. However, in some cases the programs of the Endangered Species Act have had an effect which is opposite the intent, and they often have a detrimental impact on the affected communities. It is also compromising human lives.

This is one such case in which we should make a small modification where human lives are at stake. Unfortunately, the rigidity of current law has placed obstacles in front of those who wish to repair and maintain flood control structures.

We heard testimony in the Committee on Rules of the opportunities to avoid flood tragedies that were lost because bureaucratic redtape delayed necessary levy repairs. Rather than taking the proactive endeavors that would repair levees, State and local officials were bogged down in studies and mitigation requirements that have resulted in levee failures, significant economic damage, and the loss of human life.

It is my hope that this modification in the Endangered Species Act will save lives, safeguard property, protect species whose habitats are near flood control structures, and significantly reduce the demand for massive annual appropriations for emergency relief.

H.R. 478 was favorably reported out of the Committee on Resources by the vote of 23 to 9, and the open rule was unanimously approved by the Committee on Rules. I urge my colleagues to support the rule so that we may proceed with general debate and consideration of the merits of this very important bill.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Georgia for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this open rule and urge my colleagues to support it so that all our alternatives and potential improvements to this legislation may be considered.

The bill made in order by the rule, however, concerns me a great deal. Even the name of the bill, "the Flood Prevention and Family Protection Act" is misleading. This legislation will neither prevent floods nor will it protect families from floodwater. Instead, it takes political advantage of the recent tragedies associated with flooding in various States and uses them to attack one of our Nation's landmark environmental laws, the Endangered Species Act.

This bill is overbroad, and would open a gaping hole in the Endangered Species Act. It would permanently exempt the reconstruction, operation, maintenance, and repair of all dams, hydroelectric facilities, levees, canals, and other water-related projects from the safeguards and protections of the Endangered Species Act, whether these projects are Federal or non-Federal. There are literally thousands of dams and other structures nationwide that have flood control as a purpose. Under this ill-advised legislation, almost all water-related projects, from repairing levees to operating massive hydroelectric facilities, would be exempt from the Endangered Species Act, meaning that no consultation whatsoever would be required regarding those projects' potential effects on endangered species or their habitats.

Moreover, the bill is unnecessary. The Endangered Species Act is already flexible enough to allow expedited review for improvements or upgrading to existing structures in impending emergencies. And, most important, the act already allows exemptions for the replacement and repair of public facilities in Presidentially declared disaster areas. And the Fish and Wildlife Service has already issued a policy statement clarifying that flood-fighting and levee repairs are automatically exempted from the Endangered Species Act if they are needed to save lives and property.

However, it is important for us to point out that the Endangered Species Act did not cause floods. I believe that is an act of nature.

If there are burdens that are imposed by the Endangered Species Act on landowners, we should look for ways to reduce the burdens without compromising the protection of our vanishing wildlife. But legislation that reduces those burdens by eliminating the protection of endangered species is not reform; it is repeal.

I had hoped that after last year's disastrous attempts to gut our Nation's landmark environmental laws, that bills like H.R. 478 would be put to rest, but I was wrong. Now it appears that the American people will witness a more insidious repeat of the 104th Congress, one in which back-door attempts to chip away at environmental protections are brought to the floor under the guise of protecting families.

Mr. Speaker, while I do not oppose this open rule, I strongly urge my colleagues to defeat the bill that it makes in order.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I have no disagreement with the rule, but I do strongly disagree with the direction that this bill takes in terms of its representations and action fundamentally undercutting seriously the Endangered Species Act, an act which should be reauthorized and dealt with on its merits as opposed to these single shots and, I might say, a broad attempt here today to suspend the application of the Endangered Species Act to a wide range of regular activities dealing with the repair, the reconstruction, the maintenance, and even the operation of various water projects.

Mr. Speaker, we are aware that when water projects are put forth and justified, they are justified on the basis of a series of different criteria and purposes. One of those purposes is flood

protection, another might be for navigation, it may be for power production and certainly for recreation and the enhancement of the natural features, the wildlife and other flora and fauna that might be present in the project areas.

What we see here is that in the reconstruction, in this whole series of operation and other activities, that this would be completely suspended. We would not look at one of the significant factors that are involved in such project. Under the Endangered Species Act, there have literally been 25 to 40,000 consultations. This suspends any consultation with the Fish and Wildlife Service as to the aspects of that impacting the flora and fauna that may be endangered, may be threatened, or may be candidate species, we would not have a consultation with them, we would not have conferencing, and, finally, we would suspend the provision if they in fact do damage, what we call takings within the Endangered Species Act, would also be null and void.

Doing this under the auspices of somehow protecting safety and health and life, in fact I think that the supposition that somehow that the Endangered Species Act is responsible for the flooding and the loss of life in California has not been demonstrated. In the hearings on this matter, there was evidence that they had an 11-year project and that this segment was the last phase of the project that was not rehabbed and constructed for a whole variety of reasons, some of which were financing and other activities. There was a determination on how they would proceed with this. It is true that it does take time to discuss and to talk about the impacts of replacing or building flood control projects, but it hardly was the basis in which a natural phenomenon, a hydrological event in terms of rainfall, a hydrological-meteorological event, I might say, that heavy rainfall and snow melt which occurred and caused that particular catastrophic event. We have seen this happen over and over again recently by the House in recent years. Very often in fact if the environmental rules were followed with regard to how we treat watersheds and wetlands, we would see a lot less of this flooding and a lot more capacity of an area to absorb that type of a natural event that occurs. The effort to use the endangered species as the scapegoat and responsible for this problem is wrong. This measure being proposed is not just for emergency situations. This would be a permanent exemption by amending the Endangered Species Act, as I said, for a broad range of activities, for dredging, as an example, and that occurs in the Mississippi water basin, it occurs in Florida, all of those activities. The endangered species would be exempt in those instances, there would be no consultation, there would be no protection of the endangered or threatened species or candidate species in those instances.

Mr. Speaker, we will have an opportunity during the debate to vote for the Boehlert-Fazio amendment which will provide a temporary exemption which will sunset when the emergency is gone, which will deal with the aftermath, the floods, and other types of damage that may be done to water projects so that we are not under the necessity to have the rules and regulations when there is a legitimate emergency or crisis situation, we can deal with it. This bill, of course, in its current form, the administration has reported that they are going to veto it. All of the major environmental groups across this country are opposed to it.

Mr. Speaker, this harkens back to the last Congress when repeatedly we were on this floor with a multitude of environmental bills that attempted to repeal the bipartisan heritage of environmental policy that has been developed in the last 30 years. This is the first opportunity that Members have had to stand up and to say no to that type of head-in-the-sand operation with regard to environmental legislation. I hope Congress will say no today on the major bill and vote for the Fazio-Boehlert amendment which will be offered to make this a reasonable targeted attempt at policy with a sunset.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. 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 SPEAKER pro tempore (Mr. ROGERS). The question is on the resolution.

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

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 415, nays 8, not voting 10, as follows:

[Roll No. 107]

YEAS—415

Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer

Saxton	Snyder	Traficant
Scarborough	Solomon	Turner
Schaefer, Dan	Souder	Upton
Schaffer, Bob	Spence	Velázquez
Schumer	Spratt	Visclosky
Scott	Stark	Walsh
Sensenbrenner	Stearns	Wamp
Serrano	Stenholm	Waters
Sessions	Stokes	Watkins
Shadegg	Strickland	Watt (NC)
Shaw	Stump	Watts (OK)
Shays	Stupak	Waxman
Sherman	Sununu	Weldon (FL)
Shimkus	Talent	Weldon (PA)
Shuster	Tanner	Weller
Sisisky	Tauscher	Wexler
Skaggs	Tauzin	Weygand
Skeen	Taylor (MS)	White
Skelton	Thomas	Whitfield
Slaughter	Thompson	Wicker
Smith (MI)	Thornberry	Wise
Smith (NJ)	Thune	Wolf
Smith (OR)	Thurman	Woolsey
Smith (TX)	Tiahrt	Wynn
Smith, Adam	Tierney	Yates
Smith, Linda	Torres	Young (AK)
Snowbarger	Towns	Young (FL)

NAYS—8

DeFazio	Hinchey	Stabenow
Filner	Kennedy (RI)	Vento
Furse	McNulty	

NOT VOTING—10

Andrews	Clay	Schiff
Becerra	Cox	Taylor (NC)
Blunt	Gejdenson	
Burr	Reyes	

□ 1434

Mr. McNULTY changed his vote from "yea" to "nay."

Mr. MARTINEZ changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to House Resolution 142 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. 478.

□ 1437

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. 478) to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that act in building, operating, maintaining, or repairing flood control projects, facilities, or structures, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. MILLER] will each control 30 minutes.

The Chair recognizes the gentleman from California [Mr. POMBO].

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

Mr. Chairman, at this time I would like to point out to the Members that we are beginning debate on what is a very important bill. It is very important to my district, it is very important to the Central Valley of California, but it is also very important to the Nation as a whole.

We are undertaking an effort to put some common sense into the maintenance, management of our flood control system. It is not a broad-based bill; it does not go after all of the problems that we would like to fix with the Endangered Species Act, but it does go after one specific problem that we have had, and that problem is that the routine maintenance of our levee system has not been allowed to continue, has not been allowed to happen on a timely basis because of the implementation of this act the way that it is being implemented in California today.

Mr. Chairman, I yield 4 minutes to the gentleman from Alaska [Mr. YOUNG], chairman of the full committee.

Mr. YOUNG of Alaska. Mr. Chairman, the bill before us is H.R. 478, the Flood Prevention and Family Protection Act of 1997.

The Committee on Resources reported the bill to the House on April 10 by 29 votes, including 6 Democratic votes.

As my colleagues know, in the last Congress I made the reauthorization and reform of the Endangered Species Act a top priority of my committee. I am one of the few Members, in fact probably the second Member of this whole body, who voted for the Endangered Species Act in 1973.

I have supported the goals of the Endangered Species Act throughout my 25 years in Congress. However, as an early supporter I can tell my colleagues that today, 24 years later, I am sorely disappointed in the way that this law, with its good goal, has been abused by environmentalists, both in and out of our Government, who use this law not to protect wildlife and endangered species, but to control the use of lands. I believe the professional environmentalists have taken an extreme position on this bill, favoring beetles and their habitat over the protection of human life, property, and environment.

May I stress that in California, the big flood break that started there is because we were trying to mitigate where the Corps of Engineers said it had to be fixed, an area that had beetle habitat. And after 6 years they finally said: Yes, you can repair. After $10 million, we can repair the levee next summer. Guess what? The levee broke, as the Corps said it would break. Right here, right here is the statement, 6 years later the levee did break. We lost three lives and millions of dollars of damage done to private property and the agricultural base of California. Guess what? We even lost the elderberry bush. So what did we accomplish? Nothing.

Now, I am going to suggest to my colleagues that H.R. 478 by the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. HERGER] is a solution to a problem. All it does is give us the authority to in fact maintain levees, maintain levees. My colleagues will hear later on today about an amendment that says great things but does nothing. In fact, it makes it worse than it is right now.

So I am asking all of my colleagues in this room to keep in mind my position. First, the process, the committee process, and second, do we truly cherish human life, do we cherish the property, and should we put up roadblocks under an agency with a law that cherishes beetles over human life? We lost the elderberry bush, we lost lives, in fact, we lost great amounts of tax dollars.

The amendment later on to be offered by the gentleman from New York [Mr. BOEHLERT] says yes, we can repair the levee after the break or we can repair the levee or work on it if it is in imminent danger right now. No one defines who spells that out. Nor in fact will it give us an opportunity to maintain a levee prior to.

I come from an area in California, originally born there, and I went through four floods. I am going to suggest respectfully, for those that say that this bill is gutting the Endangered Species Act, I ask my colleagues, did they vote for the Endangered Species Act? No. The gentleman from California [Mr. MILLER] did not vote for it; the gentleman from California [Mr. FARR] did not vote for it; the gentleman from New York [Mr. BOEHLERT] did not vote for it. I did.

I went through the hearing process. I knew what was intended. What we are trying to do is fix a small part of the Endangered Species Act and make it more logical and it can be applied to the protection of human life and property that must be protected. That is our responsibility.

Mr. Chairman, I urge a "no" vote on the amendment offered by the gentleman from New York [Mr. BOEHLERT] and very frankly a big "yes" vote on H.R. 478.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to this bill which would gut the Endangered Species Act. Make no mistake about it. The bill would, and I quote, exempt any maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control project, facility or structure, and it goes on and on.

□ 1445

H.R. 478 bears no resemblance to the benign, narrow bill its sponsors describe. H.R. 478 is advertised as a targeted response to an emergency situation. Yet, this bill would exempt from the Endangered Species Act any work at any existing flood control facility, even if there was no conceivable threat to public safety. Is a blanket exemption to the Endangered Species Act necessary to respond to or to prevent emergency? Obviously not.

H.R. 478 is advertised as a way to provide relief to communities that have suffered or will suffer from disasters. Yet, this bill is so broad that it would never be signed into law. Can a bill that never becomes law help a single person? Obviously not.

H.R. 478 is advertised as being pro-environment. Yet, this bill is vehemently opposed not only by every environmental group, but by such sportsmens' group as Trout, Unlimited, and by conservative wildlife management groups such as the International Association of Fish and Wildlife Associations. Would a pro-environment bill be opposed by the entire environmental community? Obviously not.

H.R. 478 is advertised as striking a balance between human needs and the preservation of wildlife, yet this bill would prevent any wildlife consideration from being taken into account in managing such areas as the Everglades or the Columbia River Basin, or the Colorado River. Can a bill simultaneously do away with wildlife considerations and provide any protection for endangered species? Obviously not.

The deficiencies in this bill are, indeed, glaringly obvious. We cannot ignore them simply because this bill is being proposed in the wake of tragic floods. This bill has little to do with responding to floods and everything to do with using them as political cover.

However, we must not be distracted by shouting "flood" in a crowded congressional Chamber. Does this mean that the Endangered Species Act does not need to be reformed? No. But today's debate is about emergency measures, not about comprehensive reform. Does this mean that Congress does not mean to make any changes to the Endangered Species Act in response to floods? No. But we respond with moderate, targeted, sensible solutions to real problems.

Mr. Chairman, we have to respond with moderate, targeted, sensible solutions to real problems, solutions that can get signed into law. I will offer a substitute that fits that description, a measure that will work as advertised.

Mr. Chairman, I urge my colleagues to read H.R. 478 to understand its expansive impact. We must not allow legitimate concerns about flooding to wash away 25 years of effort to preserve endangered species. We have better ways to protect human lives and property, the goal we all share. I ask my colleagues to oppose H.R. 478 and to support the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, I come to the well as an expert in what can happen when levees are not sufficient to withstand raging flood waters. Three weeks ago the city of Grand Forks went under. We have a city of 50,000, the second largest city in my State, which sustained hundreds of millions of dollars of damage. In fact, the Federal Reserve Board of St. Paul has estimated that the damage in Grand Forks and through the Red River Valley, the property damage alone is $1.2 to $1.8 billion.

Mr. Chairman, I believe an ESA exemption sufficient to address levee repair, where necessary to protect human life or prevent substantial property damage, only makes very basic sense. This body must evaluate and weigh conflicting priorities on critical issues like the one before us. Clearly we have to come down on the side of protecting human life. We have to come down on the side of preventing major property damage. We have to protect levees. Let us pass this bill, as amended by the gentleman from California [Mr. CAMPBELL].

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we are here as lawmakers. I will not disagree with anything that has been said by the previous speakers, but I think they have failed to read the law that they are asking the Members to adopt. That law as it comes to the floor says that consultation conferencing is not required for any agency for the reconstruction, the operation, the maintaining or repairing of Federal or non-Federal flood control projects, facilities, or structures. Then it lists the reasons why. But it also says it will also apply when it consists of maintenance, and including operation of a facility in accordance with previously issued Federal license, permit, or other authorized law.

What this says is that you no longer have to consult or confer with people when you are going to build a dam, when you are going to operate a dam, when you are going to build any kind of structure. Why is this consultation important? It does not say just in floods. It says any time, any time. It could be just clear, beautiful, sunny weather; ignore the endangered species, ignore the species, because endangered species goes into looking at all species.

I happen to represent a lot of fishermen. Their fish depend on water quality and water flows. What this is saying is that the farming interests here or the interests of those who maintain levees should supersede the rights of those who benefit from the water.

That is not what this Congress wants to do. The problem with this bill is not the intent, because I think the intent is supportable. The problem with this bill is the way it has been drafted and comes to the floor. It makes a hole so wide that nobody in their right mind would want to have these broad exemptions.

Mr. Chairman, I have been through those floods that the gentleman from Alaska [Mr. YOUNG] talked about. I am a fifth generation Californian. I was through the floods of 1986 in the Sacramento Valley, and nobody raised this issue. There was as much water in 1986 as there was this year.

I was through the floods in 1995, in the Salinas Valley. Do you know what? People said the river was not dredged because of the Endangered Species Act, but then they went back to the record and could find no proof there was ever any issue there with the Fish and Wildlife Service of any endangered species.

The water has something to do with floods. I do not think we an ought to blame it all on the species, and some of those species we use for commercial purposes, particularly the fishermen. I stand in opposition to this bill, in support of a strong commercial fishery industry, in support of a balanced approach to problem-solving.

If Members remove this, I will tell them what is going to happen. People are going to enter the opposition through lawsuits. The consultation process is to avoid lawsuits. It is to essentially mitigate disputes before they happen. If we want to exempt that in emergency purposes, then do it for emergency purposes, not just for all time, forever.

Therefore, the bill in its present state is just too broad. It needs to be amended. It needs at this time to be defeated.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. SMITH], chairman of the Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, now I remember why I retired 2 years ago. It has to do with the exaggeration of this place, and at times, the exaggeration of the issues. It seems to me reasonable people ought to come to reasonable concerns about the past, at least, and learn from them.

In 1996 there was devastation in California with floods, and the Corps of Engineers and others said, come forward here, look at what we must do. We must repair and maintain these canals, or we are going to lose people, lives, and property. That did not occur for many of the reasons that we have heard from the gentleman from California [Mr. POMBO] and others.

What happened? We had the devastation of another flood. We will have another one in the future. So I suggest to all of us here, we ought to take a look at the past and learn from it, allow us to maintain these canals. Why do we not think about human life, as well as we think of snakes and beatles, especially if we have somebody telling us we have human life at stake here. Hey, who are we protecting in this body, anyway, if we have the choice? We are going to protect more endangered species by this bill than we do without it. Why? What happens when we have a tragic flood? It is like what happens when you have a tragic fire. It burns everything, floods destroy everything. How many endangered species do Members think were lost in this flood of 1996? I recommend much more, many, many more than we would have protected had they given us this bill.

This bill saves lives, it saves endangered species, and it saves property. I thought that is what we were all about.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I rise today in strong support of the Fazio-Boehlert amendment. I supported this amendment in the Committee on Appropriations, and I think this is a real commonsense amendment. Basically, what it says is that any activity that is needed for the repair of flood control projects is exempted from the consultation process of ESA. But this amendment goes far beyond that. It says we are going to exempt any project anywhere in the country that is involved in flood control. That is an overreach. It is not what we should be doing here today.

Mr. Chairman, I happen to believe, I am a strong believer in the Endangered Species Act, even though up in my State we have had terrible problems with the marbled murrelet, the northern spotted owl, and salmon. But what we have done is worked with the Fish and Wildlife Service. We have had consultation, and we were able to work out solutions that protect the environment, that protect species. The Fish and Wildlife Service has already, in California, exempted the work that has to be done to fix the levees and do the repairs. Mr. Chairman, the underlying bill, frankly, is unnecessary.

Second, what in essence we are doing here today with the Boehlert-Fazio amendment is putting into statute what the Fish and Wildlife Service has already done, and which this administration strongly supports. That is going out there and doing the fixes that are necessary to help the people that are hurt.

This amendment goes beyond that and says any flood control project in the entire country is exempted from the Endangered Species Act. I am ashamed of the other side who presents this, because they tried this same thing last year and they were defeated when many Republicans, Republicans who would support the Endangered Species Act, deserted and stood with those of us in the House who believe we should have some concern about species.

We are a specie. The health of the ecosystem is important not only to the species, but also to the humans. In our long-term best interest, I think we are in better shape when we work with the agencies and come up with rational solutions. So let us not overreach, let us not try to use the floods in California to gut the ESA, let us legislate today carefully and competently. Let us accept the Fazio-Boehlert amendment, which gets to the heart of what needs to be done, without overreaching.

Mr. POMBO. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HERGER], the author of the bill.

□ 1500

Mr. HERGER. Mr. Chairman, today I wish to speak on behalf of my legislation, H.R. 478, the Flood Prevention and Family Protection Act of 1997. This legislation addresses a critical need that can be found in virtually every district in the United States. Not one area of this country does not possess some structure created for the sole purpose of flood control.

Levees and other flood control structures work well to preserve human life and animal habitat when they are properly designed, constructed, maintained, and repaired. If left unrepaired or improperly maintained, these structures have the potential of failing during flood events and imperiling human life and the environment.

This year alone, floods have devastated areas across the United States. Rising waters have taken lives and destroyed property in California, Nevada, Oregon, Washington, North Dakota, Minnesota, and the entire Ohio River Valley. Controlling these floods is a national responsibility that requires a national solution.

It amends the Endangered Species Act to allow flood experts to repair and maintain existing man-made flood control structures. The ESA was never intended to compromise human life, yet that is exactly what happens each time a levee or other needed flood control project is postponed or delayed due to extensive and costly regulations mandated by the ESA.

Since 1986, after devastating floods weakened levees along the Feather River in my northern California district, flood control officials near the community of Arboga, CA, attempted to repair and reconstruct their failing levee system. In 1990, a U.S. Army Corps of Engineers report determined repairs should occur on the Arboga levee as expeditiously as possible, stating, "Loss of life is expected under existing conditions, without remedial repairs, for major flood events."

Despite this acknowledgment, more than 6 years of mitigation passed before permission was finally granted to begin repairs in the summer of 1997. Unfortunately, it was too late for the residents of Arboga. Levee officials were required to spend 6 years, and on January 2, at 12:20 a.m., the levee broke in the very location predicted 7 years earlier.

We have a photo of that. As you can see by this photo, a levee failure is a traumatic event. Homes are lost, property is destroyed, and critical habitat is irreparably damaged. More importantly, human lives are put in jeopardy and often lost.

The levee break at Arboga took the lives of three people. The first was 75-year-old Claire Royal, a retired elementary school teacher who had taught school for 20 years at Far West Elementary School and Beal Air Force Base.

The second was 55-year-old grandmother Marian Anderson. Marian was also the wife of levee manager Gene Anderson, who, ironically, was out inspecting other portions of the levee when his wife was drowned.

The third person that drowned that night was World War II veteran Bill Nakagawa. Bill had served in World War II with the famed and distinguished Japanese-American 442d Combat Team of the U.S. Army in the European Theater. He was found in his home one-quarter mile away from the broken Arboga levee.

Thirty-two thousand other people were driven from their homes, 25,000 square miles of property and critical habitat were flooded, and more than 600 head of livestock, cows and horses, were drowned.

If H.R. 478 had been in place, this tragedy could have been avoided. Repairs would have been allowed to begin back in 1990 when the critical nature of the levee's condition was first noticed. Instead of proceeding directly with construction, however, officials were required to spend 6 years and more than $10 million on studies and delaying mitigation that was eventually washed away in the January 2 floods.

This example occurred in my district in northern California, but the same thing could happen virtually in every other district across the United States. All it takes is a flood control structure and a listed species. Necessary and require repairs and maintenance will be delayed.

I urge Members' support of this legislation.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, I think all of the Members in the Chamber to one extent or another believe in the provisions of the Endangered Species Act. Whether you think that it is exactly right or whether you think it is mostly right, most of us do agree that there is a need to protect certain species that are either threatened or endangered.

The problem with the bill of the gentleman from California [Mr. HERGER] is that those projects which it exempts tend to be where many endangered species live. That creates a very difficult situation for those of us who would like to maintain a balance in the endangered species area, simply because the exempted projects and the exempted parcels of land are the home for many of these species. So that makes it very difficult.

I know my good friend, the gentleman from California [Mr. CAMPBELL], has some language which he will offer later in the form of an amendment which moves toward changing the situation somewhat. He adds the language that says that the exemption will be in effect where necessary to protect human life and to prevent the substantial risk of serious property damage.

I wish I could support the Campbell amendment. However, by the very nature of the location of flood control projects, they are built to protect from the risk of substantial damage to property, life, and limb. And so I would suggest to my friend, the gentleman from California [Mr. CAMPBELL], that his language simply maintains the status quo as contained in the Herger bill and does not really have the effect that I know he intends it to have.

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

Mr. SAXTON. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, my amendment would apply to the broadest part of the Herger-Pombo bill. What it would do is to take it from, I think, a very broad and too broad expansion down to the specific case, "where necessary to protect human life or to prevent the substantial risk of serious property damage." In that sense I believe it is really quite limiting. I confess, although it might have been because I did not hear all of the gentleman, though I tried, that I do not understand his point, in what sense my amendment was inadequate.

Mr. SAXTON. I contend, Mr. Chairman, that flood control projects are built only where there is a risk of significant loss of property, life, or limb. Therefore, the gentleman, by exempting only those projects which fall under that category, by nature of the definition exempts all of the projects that the gentleman from California [Mr. POMBO] exempts in his original bill.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I represent the State of Louisiana, which drains about 43 States. The district I represent sees the water coming through every year. Every year the water in the Mississippi River alone rises above the level of the inhabitants of the city of New Orleans by about 17 feet, 17 feet below sea level. In the case of a hard flood, hurricane conditions, we are told we could expect 27 feet of water in New Orleans if we do not protect our levees.

The choice you will face today will be a choice between making sure that the very precious funds available for the reconstruction, maintenance, and repair of existing levees and facilities designed to protect human lives, that those precious funds are in fact spent to do that. Or the choice will be to adopt the California solution.

This is the California problem. This is the set of regulations that levee maintenance people have to undergo in California in order to repair a levee. Testimony after testimony was heard at our committee of levee managers, both those who represent the State and local levee boards and those on Federal projects, who tell us that time and time again the precious dollars available to repair those levees had to be spent on mitigation projects demanded by the Fish and Wildlife Service and the Interior Department, projects that took those precious dollars away and, more important, took the time away from those necessary repairs. The gentleman from California [Mr. HERGER] read us the results: human lives lost, massive flooding.

Let me put it as clearly as I can to my colleagues. We will have a choice between an amendment that seeks to give America the California problem, the Boehlert amendment will simply codify this Federal solution in California and give it to Louisiana and the rest of the Nation, or a choice to say very simply that endangered species, yes, ought to be protected but not with levee board funds, not with funds designed to repair and rebuild and fit levees to protect human lives.

Whether we are for protecting animals and plants and the endangered species or not, and I think we all are, we ought to be for the proposition that when precious dollars and time is available to save precious human lives, that it ought not be spent on other worthwhile things. That money ought to go to build levees and repair them and keep people safe. If we vote today to put this California problem in place for the rest of America, we will be condemning citizens of this country to death and property to destruction all over this country.

We in Louisiana depend upon levees. Every Member of our delegation, Democrat and Republican, has signed onto the Pombo bill. Every member of our delegation, Democrat and Republican, urban and rural, understands how critical maintenance of levee construction projects, maintenance of levee facilities are to the health and safety of our communities.

The city of New Orleans today is protected by something called a Bonne Carre spillway. It is a set of gates that open up water from the Mississippi River and spills it out into Lake Pontchartrain. Do we like doing that to the lake? No. We do it to keep the water levels down because in New Orleans today, if you go to our fair city, you will see ships plying the Mississippi above the level that people live. We need to pass the Pombo bill, defeat the Boehlert amendment.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy. I do agree with my colleague the gentleman from Oregon [Mr. SMITH], that we ought to learn from the past. But I am afraid that debate here today is largely beside the point.

First and foremost, the bill today addresses something that simply is not a problem. The information I have received from my State, and we know something about flooding; if it is not wet, if we are not under water, we are wet in Oregon. We have had lots of flooding. But we have had our experience that the opportunities under the ESA right now, the emergency consultation, do provide adequate provisions in dealing with problems. To the extent that we think that it needs clarification, the amendment offered by the gentleman from New York [Mr. BOEHLERT] and the gentleman from California [Mr. FAZIO] here will address that.

But I think the arguments that we are hearing today are reinforcing a tragic notion that somehow we are going to engineer our way out of the flooding. We have spent billions of dollars treating our water systems as machines and there is the notion, the false notion, that somehow by passing more levee construction, more money, that we are going to stop it. The fact is there are only three things that we should do to try and learn from the past, that will make a difference.

First and foremost, we should stop having people build in harm's way and help move people who are there out, rather than spending money time and time again to rebuild where God does not want them.

Second, we have to stop relying on building new dams and levees which simply make the problem worse, move the problem downstream. Why has the State of California had three floods of the century over the last 111 years? It is not getting better after $38 billion.

And, last but not least, when we have paved 53 percent of the wetlands in the lower 48 States, you do not have any place for this water to go. It still comes down and we have floods. For heaven's sake, people who have simplistic ideas that we can go ahead and continue to pave our wetlands are sadly mistaken. Without changes in our thinking, we are going to continue to be wasting lives and money and coming back year after year with these sad, sad presentations.

I urge adoption of the amendment offered by the gentlemen from New York and California.

□ 1515

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Chairman, I rise in support of the Pombo-Herger legislation and in opposition to the Fazio-Boehlert amendment.

I believe very strongly that we have an opportunity to make a responsible modification to our Endangered Species Act to ensure that we can establish that balance in terms of how do we protect the health and safety of people and the economic livelihood of many of our communities, at the same time not unduly endangering many endangered species.

A lot of people have to keep in mind that a lot of these flood control projects and levies were established, they had to go through a NEPA process, had to be developed in accordance with the Endangered Species Act, had to provide mitigation at that time. And now all too often we are finding for them to do the ongoing maintenance of these projects is that Fish and Wildlife, unfortunately, is asking them for additional mitigation just to maintain the projects that were built according to the NEPA and according to our environmental laws. What we are asking here is just, I think, a responsible step forward.

I would also point out that I think this is actually going to result in environmental enhancement, because if we have a flood control district and a levy district that knows that they can maintain their levies, that they will not be threatened if they allow for habitat to be established, they do not have that incentive to go out and sterilize these.

I think the Pombo-Herger legislation is a responsible step forward, and I urge its passage.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Chairman, I rise today in opposition to H.R. 478, a bill which would gut the Endangered Species Act and which would be disastrous to imperiled species and ecosystems.

It is inconceivable to me how blame has been placed so readily and so callously on the Endangered Species Act for causing and aggravating the recent flooding in California. This is simply not the case. Rather, a shortage of funds, design flaws, and water management practices all contributed to this flood damage.

This bill exempts the reconstruction, operation, maintenance, repair, rehabilitation or replacement of any flood control facility from the requirement to protect endangered species at any time. Any activity related to a flood control facility, such as dredging, would be exempted from these requirements.

It is here, however, that the legislation's true effect is revealed. The ESA exemption to flood control facilities is permanent. As a result, the exemption would not have to be examined within the wider context of the total ESA provisions.

Currently, protection for endangered species is distributed equally among all parties which impact that species. This bill would remove flood control activities from the responsibility and shift it to others. That is why I support the substitute amendment. I urge my colleagues to do so, and I urge them to oppose this inaptly named legislation.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I want to engage the gentleman in a colloquy to clarify the intent of the amendment to section 7(A)(5)(B) and sections 9(A)(3)(B), which allows maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control facility, including operation of the facility in accordance with a previously issued Federal license, permit or other authorization.

Would it be the gentleman's understanding that these types of facilities are operating under authorizations which were granted after passing environmental reviews necessary at the time of the project, facility or the structure was built?

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

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, I would say to the gentleman that, yes, that is my understanding.

Mr. LEWIS of California. With regard to that same language, is it the gentleman's intent that when these licenses or permits expire these types of facilities will be fully subject to the provisions of the Endangered Species Act just as any other similar facility seeking a license, permit or authorization?

Mr. POMBO. Yes, that is my intent.

Mr. LEWIS of California. With regard to the reconstruction, repair, operation and maintenance of flood control facilities, is it the gentleman's understanding that replacement work would not extend beyond the physical footprint of the original project, facility or structure?

Mr. POMBO. Yes, that is my intent.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman clarifying that.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I thank my colleague for yielding me this time.

After the disastrous floods of this winter I came back to Congress not only intent on finding the funds in the supplemental appropriations bill to deal with the needs of the constituents that those of us in the Central Valley of California represent, but to deal with the Endangered Species Act so that we could put the system, the complex flood control system, back in place by next winter.

I took an approach which was consistent with the advice I was given from the chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON], and the chairman of the Subcommittee on Energy and Water Development, the gentleman from Pennsylvania [Mr. MCDADE], and that was to come up with an amendment that would not be controversial and in some way impede the passage of the supplemental appropriations bill.

We drafted language that dealt with the emergency up through the end of next calendar year and provided, in addition, for special procedures if imminent danger to life and property were to occur. That language was adopted unanimously by the Committee on Appropriations after some fine-tuning. It was expanded to cover the entire country at the request of the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Mississippi [Mr. PARKER].

I now find we are having a vote on a separate standing authorization bill, which I believe is really a vote on what language will ultimately be added to the appropriations supplemental when it finally comes to the floor, probably next week. There is no real hope of this separate bill going to the President.

The language that the gentleman from California [Mr. POMBO] is advocating has explicitly been opposed by the administration and a veto has been threatened. Just today, after a number of weeks of conversation, we were told they would accept the language that the Committee on Appropriations passed unanimously that the gentleman from New York and I bring forward today.

I want to deal with the art of the possible. I want to deal with the immediate problem that our constituents face, and that is to get the flood control system they have helped pay for over a long period of time—along with the Federal taxpayer—back to a point where they can feel protected.

I understand the need to thoroughly review the Endangered Species Act. I would like to see it brought to the floor in totality. I would like to see us work our will on changes that are required in it, not just single-shot changes like this one. I hope that can be accomplished in this Congress. But I do not want this very hot issue, where emotions are obviously boiling over, to impede the approach that I have taken, which will be signed as part of the supplemental, which will help the people that I represent just as the two gentlemen from California, Mr. POMBO and Mr. HERGER, and others do.

If this Boehlert amendment that has come from the Committee on Appropriations, which it passed unanimously, can pass this floor, it will be signed into law. But if the Pombo bill that is before us today is somehow to survive this process and go to the President as part of the supplemental appropriations effort it will bring down the entire bill; not a result that helps the people of California who have been victimized by this flooding. I, therefore, support the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 1 minute and 15 seconds to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Chairman, I rise to support of H.R. 478, the Flood Prevention and Family Protection Act of 1997.

Flood control is a necessity, not a luxury, and unfortunately opponents of the measure see the world much differently. A recent letter from the environmental lobby, which is opposed to this legislation, stated:

> H.R. 478 would give dam-managing agencies * * * carte blanche to destroy aquatic wildlife in the name of flood control.

Does anybody really believe this is what these local decisionmakers have in mind? This kind of extreme rhetoric is a symptom of the controversy surrounding the current environmental debate. If we are ever going to address today's environmental problems, we can no longer rely on yesterday's solutions.

The proponents of the status quo, I believe, are less concerned about protecting endangered species than they are in giving up Federal control of environmental decisionmaking to local authorities. How many species survived the recent levy washout in California? How much habitat was destroyed? How many people died?

The proponents of H.R. 478 are not opposed to species protection; they are simply opposed to policies that undermine our ability to protect people from the dangers of floods.

This bill makes a commonsense change in the Endangered Species Act to help prevent flooding before it occurs, not just in dealing with it after. I urge my colleagues to support H.R. 478.

Mr. MILLER of California. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yieldin me this time.

I would like to list a number of things here. Everyone here wants to save the lives of people, and everyone here wants to put people out of harm's way, and I would assume that everyone here wants to understand the natural mechanics of the flow of water and the mechanics of creation, how things work.

No. 1, this area in California is already exempted as a result of section 7 of the Endangered Species Act from consultation. This area declared a disaster is exempted from the Endangered Species Act.

No. 2, the amendment of the gentleman from New York, [Mr. BOEHLERT], goes a little bit further than already existing law to ensure that repairs are made at least by December 1998, and it can be extended beyond that.

I am going to amend the Boehlert substitute by ensuring that we have some sense of understanding as far as what maintenance means and the cost of mitigation.

Now, the present bill on the floor, whether it is the present bill or whether the present bill is amended by the gentleman from California, [Mr. CAMPBELL], exempts in a blanket manner the Corps of Engineers from ESA consideration in the following areas: Dams, reservoirs, erosion control, beach replenishment, levies, dikes, walls, diversion channels, channel operations, draining of agricultural lands, you name it, the list goes on and on and on.

Now, the issue here is an emergency. We are dealing with an emergency with the present law. With the Boehlert amendment we will ensure that what we see here will be repaired. But I want my colleagues to take a close look at what they see here. We see levies, we see when levies fail they cause great problems in the other picture.

The problem is, as far as I am concerned, and we are missing the mark in this debate, is that we are dealing with, at least, a 500-year-old engineering design. That design is called levies. Most of the levies in the area of California were built 100 years ago. In 1997, we have better engineering skills. Levies, by their very nature, increase the level of the water and increase the speed of the water. Levies exacerbate upstream and downstream flooding. Levies fail because they conflict rather than conform to the natural processes of the water.

A gentleman earlier, from Oregon, said that if we had more areas where the water could meander into, more wetlands, then we might have nuisance flooding every once in a while, but the problem is when we channel that water and speed up that water and we raise the level of that water, not only do we have flooding, we have major flooding. And not only do we have major flooding with this faulty design of levies, we have human misery.

So, it is about time that we have some sense of understanding as to the construction of these levies. My fear is that if we pass the bill in its present form or even with the Campbell amendment, we will once again give people the false impression that levies will protect their lives and property, and that simply is not true.

Levies, by their very nature, the design of levies are going to fail, whether they have been maintained or whether they were some of the best levies and they met all the standards. I think if we look at the levies in this picture they look like they are pretty well maintained, the grass is cut, we do not see a lot of bushes. Whether this was the best maintained levy in that district of California or whether it was the worst maintained levy in that district of California, levies are designed to fail, and if we bring the people of this country some tranquil sense that we are going to protect them, this bill will not do it.

□ 1530

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. I thank the gentleman from California [Mr. POMBO] for yielding time.

The bill that was offered before us will be amended in a manner that has been described by a number of speakers. I would like to take a moment and say what my amendment does. It limits the Herger-Pombo bill to those existing projects, so it is not for all new projects as has been said; it has to be for existing projects only, that previously have received a Federal license, and then this qualification: "where necessary to protect human life or to prevent the substantial risk of serious property damage."

I do not know what sort of a project my colleague would like to delay where its purpose is to protect human life and to prevent substantial risk of serious property damage. That is a very narrowing amendment. It makes Herger-Pombo much more constrained to a real case of need. I just cannot see who would be opposed to letting a project go ahead where it fits those criteria, necessary to protect human life, or to prevent the substantial risk of serious property damage.

Finally, on the Boehlert amendment, which we will vote on in a bit, bear in mind that that amendment only applies to imminent threats. Oftentimes we know the river is going to rise, but it is not rising yet. For that reason we need Herger-Pombo as amended by my amendment.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, H.R. 478 is an extreme and environmentally dangerous bill that expands the waiver of the Endangered Species Act requirements to a broad range of nonemergency situations. This bill would allow for an ESA waiver for the daily routine maintenance and repair of any existing flood project anywhere in the Nation. This exemption would apply to all projects, Federal and non-Federal, at any time regardless of flood threat.

H.R. 478 would subject large tracts of land to environmental hazards and damage by denying them the protection of the ESA. The Boehlert-Fazio substitute is a bipartisan substitute that is in response to this excessive measure. The substitute allows for ESA exemptions to true emergencies including prospective emergencies. H.R. 478 proposes extreme sweeping changes to the ESA legislation, changes which I cannot endorse. The Boehlert-Fazio substitute allows us to address emergency repairs and gives us the opportunity to debate broader ESA issues at a later date. I am very much in support of the Boehlert-Fazio substitute for this reason.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Chairman, there are lots of Americans who work hard every day to make ends meet and spend their weekends with their kids or work in the yard who are searching for a little bit of common sense to come into government programs. I do not know if there is a clearer example of where a dose of common sense is needed than in this bill. There are levees that need to be fixed. Many of them will not be fixed without this bill, at least not fixed in time to stop the devastation. If they are not fixed, then not only are people's homes destroyed or lives lost, but the habitat is also destroyed of the animals and plants that we are trying to protect.

The base bill, I think, is the least that we can do that will make a difference in people's lives. If we wait under the Boehlert amendment until the water comes rolling down the canyon, it is too late at that point to do anything to save them. It makes sense to maintain the levees to prevent the flooding, to begin with, rather than wait until it gets into that situation and then try to run in and come to the rescue. This is a dose of common sense, and it is the least that we can do to save this badly flawed legislation.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I am from a State that was very hard hit by flooding this past winter. As a result, I am very concerned about anything that might be responsible for costly damages my constituents had experienced. So I called Oregon's Governor's office. I asked him to find out whether the Endangered Species Act had in any way contributed to the flooding in Oregon. The answer was a resounding no.

Let me read from a letter from the director of Oregon's Emergency Management Department, quote:

> As the director of the State's emergency management agency, I want to let you know that consideration of endangered species has not caused unreasonable delays in implementing flood recovery in Oregon.

She went on to say:

> The ESA includes an emergency consultation process. Consultation by telephone usually allows emergency response to proceed with the least disruptive action.

In other words, the Endangered Species Act does not cause or exacerbate flood damages in my State. The bill is not needed.

But there is something worse about this bill. Not only will it not help prevent flood damages, it will cause a huge unintended consequence. That consequence is further loss of fishing jobs in our beleaguered sports and commercial salmon fishing industry.

Let me read from the Pacific Coast Federation of Fishermen's Association, that said about H.R. 478: "The ESA is a necessary tool for West Coast salmon recovery. A blanket exemption of this sort would lead to widespread extinction of large portions of the Pacific salmon fishery industry. Such a categorical exemption," as is in this bill, "grants a license to kill this Nation's valuable aquatic resources."

They go on to say that this is hidden ostensibly in the name of flood control. Mr. Chairman, I want to tell my colleagues that this license to kill will kill jobs in my State. It will kill jobs on the West Coast of this country. It is a bad bill. It is hiding the Endangered Species Act under this emergency. It is not a flood control bill. Vote "no" on H.R. 478.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. I thank the gentleman from California for yielding me time.

Mr. Chairman, debates like this make me wonder what we are doing here. I thought this was a House that put together laws that represented the people. I thought there was a phrase once said that laws were to be made of the people, by the people, and for the people. It seems that this debate is trying to tilt to laws of the beetle, by the beetle, and for the beetle. That is the debate, Mr. Chairman. Are we going to expend all kinds of resources and human energy to protect a beetle, or are we going to remember the people in this debate? Are we going to remember Bill Nakagawa, an 81-year-old very distinguished World War II veteran and hero who risked his life to fight for life of the humans, property of the humans, and Bill Nakagawa died in this flood in California.

Mr. Chairman, it is time we get our priorities straight in this debate.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I want to join my colleagues in strong support for H.R. 478. This bill is probably the most commonsense solution and needed piece of legislation that I have encountered in the 105th Congress.

Earlier this year, several States experienced severe flooding, including my State, the State of Nevada. Many people's lives and futures were put in jeopardy or lost because levees did not hold. The underlying question behind this is why. The reason is clear. Several of the levees were not adequately maintained or repaired to properly contain the water because of these very same governmental regulations.

H.R. 478 applies commonsense solutions to the Endangered Species Act when the act affects flood control projects. Let me state that the current law only allows the waiver of the ESA after a disaster happens. H.R. 478 amends the law to allow maintenance activities on flood control facilities to take place before a disaster strikes, not afterward.

Mr. Chairman, human life cannot be balanced against the life of a beetle or any other non-human species.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. HILL].

Mr. HILL. I thank the gentleman for yielding this time.

Mr. Chairman, the debate has been a little bit confusing here, but, simply stated, H.R. 478 places protection as a priority above redtape. When confronted with the need to make repairs to our Nation's flood control structures, delays can be fatal to people, to wildlife, and to the environment. Flood control structures work to preserve human life and animal habitat. It is important to everyone that they are properly designed, properly constructed, and maintained and repaired. If they fail when left unrepaired or improperly maintained, people, habitat, and the environment all lose.

Mr. Chairman, this bill is a commonsense approach to maintaining existing flood control facilities when there is a direct threat to public safety and human life. I urge my colleagues to support it.

Mr. POMBO. Mr. Chairman, I yield 1¾ minutes to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Chairman, the eastern border of my district has 200 miles of Mississippi River frontage. I can tell my colleagues that when the Mississippi River floods, the wildlife head to our levees. If we are going to

talk about truly protecting wildlife, then I think the best way to do that is to have a levee that is structurally sound, well-maintained and able to withstand the extraordinary floods that we have had in the past few years.

Our levee boards, our drainage districts that work on a daily basis to maintain these levees, who touch and see and feel and who actually have some experience with the levees, oppose the Boehlert amendment and support H.R. 478. These folks have to face the daily threat of the Department of Interior and the EPA swooping down on them because they disturbed wildlife while doing some sort of general maintenance work, all in the name of endangered species. If we cannot do preventative maintenance, then the levees fail and we do not protect anything. As a matter of fact, our Department of Conservation every 2 years has to spend $1 million to put the wildlife habitat back together. If the levees were intact, that would not be the case. That is just taxpayer dollars. If we cannot do preventative maintenance, the levees will fail, we will not protect anything, we will not save the communities, the people in those communities or the birds, the fish and the beetles. We have to be able to perform maintenance that prevents levee failures. As the gentleman from Nevada [Mr. GIBBONS] says, current ESA provisions allow repairs only after natural disasters have begun to destroy human life and property and only after the President declares this a Federal disaster area.

I urge support for H.R. 478. Let us put people first for a change.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. Mr. Chairman, we have heard again and again today that H.R. 478 guts the Endangered Species Act. Is that true? Does it open the floodgates? I have listened to the evidence and the answer is no, no, no.

The Endangered Species Act is very important when we build levees, when we build dams, how we locate them, how it is going to affect creatures and people and protect people. But today we just want to maintain them. We want to keep them working so they perform what they were built to do.

The Endangered Species Act bureaucracy has failed us with endless delays. It has not worked. Does it open the door? No, we only can use it when there is critical imminent threat to public health and safety or to address catastrophic events, to make sure that our structures work.

I have listened to this debate carefully. There has been no evidence given that we are gutting the Endangered Species Act or endangering it in any way. It is a common sense bill brought about by the failure of the bureaucracy that has enforced the Endangered Species Act to prevent us from just repairing the structures that have been built to protect this country.

Mr. MILLER of California. Mr. Chairman, I yield 30 seconds to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I have been on the Interior appropriations subcommittee for 21 years and when the new Republican majority took over, one of the first things they did was cut out the money for the work that is necessary under the Endangered Species Act.

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It was gutted in our committee, and the reason they are having difficulty in getting consultation done and other work done on the ESA is because they cut out the money for the bill, the money for the work.

Now if my colleagues are truly sincere about what they are trying to do today, they would offer an amendment to put the money back in so they could do the consultation.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise in support of the Pombo bill. Unfortunately, in the areas needing flood control facilities the maintenance of these facilities have been compromised by excessive mitigation requirements. While I and most of us do not quarrel with the need to take strong measures to conserve endangered species, we strongly disagree with placing species conservation priorities above flood control projects.

Mr. Chairman, what we need to be doing is trying to fix levees, streams, before we get to a flooding stage, and we think that what Mr. Pombo's bill does is allow us to protect the people in those areas. Let us fix those levees and streams, let us get to doing the job of doing that, and in doing that we think in the long term we will save species and we will save human life and property.

So, I would urge all my colleagues to support the Pombo bill, and I would congratulate him on this effort.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot of reasons why we should gut the Endangered Species Act with this legislation. Unfortunately, most of them just turn out not to be true. We are told that the floods in northern California in the Yuba City area happen because of endangered species. But listen to what the Sacramento Bee, the newspaper of record, tells us, and what the Corps of Engineers tells us, and what the Fish and Wildlife Service tells us.

The fact of the matter is the Fish and Wildlife Service signed off on that project in 1990, 1992, and 1994, but what happened? The local agency came in and asked that it be delayed so it could be built larger. Then the person who lost the bid came in and sued and delayed the project. That is why the project, it had nothing to do with endangered species.

We are told that somehow the floods in central California happened because of endangered species, that the lower San Joaquin failed. We had levees that were designed for 8,000 cubic feet per second; that had 80,000 cubic feet per second come through there in a flood, 10 times the amount of water. These were perfectly maintained levees, according to the Corps of Engineers. They failed because 10 times the amount of water.

The Coachella bypass, 10 times the amount of water that that levee was designed for came through that river and blew out those levees. Those levees were perfectly maintained, according to the Corps of Engineers.

What we have here is a ruse. The same coalition that brought us the repeal of the Endangered Species Act from our committee last year is bringing this to the floor. The same coalition that brought us logging without laws that almost devastated the forests of this country now brings us levees without laws. This is nothing more than to blow a hole in the Endangered Species Act that far exceeds the holes blown in the levees by 10 times the amount of anticipated water.

Historic floods, historic amounts of water, but what is their answer? Their answer is to repeal and exempt large, integrated, publicly subsidized water projects from any compliance with the Endangered Species Act, and that should not be allowed because the record is clear. Nobody can point to the Endangered Species Act in this case of suggesting that is why these levees broke. That is not what the corps said.

But the most important point is this. Mr. BOEHLERT's amendment allows all of those levees to be fixed, and it allows all of those levees to be maintained in anticipation of an eminent threat to health or safety. That is Mr. BOEHLERT's amendment. We do not have to blow a hole in the Endangered Species Act to take care of this problem. This problem will be taken care of by the substitute offered by the gentleman from New York [Mr. BOEHLERT] and the gentleman from California [Mr. FAZIO].

More importantly, that substitute will be signed into law. The rest of this is an interesting exercise, but the President has already said he would veto it.

So the point is this: The evidence is clear. These levees failed, these well-maintained levees failed, because of 10 times the amount of water blew through these levees than was anticipated before, and that was true up and down the State of California. And when

the gentleman from Louisiana [Mr. TAUZIN] waves that book of regulations, that is California law, that is not Federal law.

Mr. POMBO. Mr. Chairman, I yield 10 seconds to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I just want to refute what the ranking member said. We did not repeal the Endangered Species Act, nor did we attempt to. We tried to rewrite it without any help from the minority at all, and this administration has been asked many times, and they sit on their fat never mind. No, I am not yielding any time. The gentleman said we repealed; we did not. We tried to do what is right.

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

Mr. Chairman, in conclusion on the debate, I would just like to say that the point is we have drafted a bill which is designed to allow routine maintenance and operation of the levee system in California. That is what it is designed to do.

We have heard a lot of statements that have been made here today which are factually untrue. It does not gut the Endangered Species Act, it does not blow a hole in the Endangered Species Act; none of that is true. What it does is it allows regular routine maintenance of the levee system to happen on a timely basis. That is what it allows.

Mr. Chairman, the entire levee system was built to protect peoples' lives and property. Why do our colleagues find it so difficult to put that as a priority of the levee system? Is it so difficult for them to place people as the No. 1 priority of our levee system, of our flood control system?

Mr. Chairman, this is a simple bill that has a targeted, very narrow problem that we are trying to correct. That is what we are after at this time. All of the stuff we keep hearing from the minority really is just an effort to block passing on control to the local district managers and giving them the opportunity to manage their levee system.

Mr. BISHOP. Mr. Chairman, the Flood Prevention and Family Protection Act before us today provides an opportunity to restore a small amount of critically needed balance to the Endangered Species Act.

The Psalmist raises the question:

What is man, that Thou art mindful of him? . . .

For Thou hast made him a little lower than the angels, and hast crowned him with glory and honour.

Thou madest him to have dominion over the works of Thy hands;

Thou hast put all things under this feet.

All sheep and oxen, yea, and the beasts of the field;

The fowl of the air, and the fish of the sea, and whatsoever passeth through the paths of the seas. . . .

This bill gives this body an opportunity to clearly state what a majority of my constituents believe: the preservation of human life should take priority over the preservation of endangered species.

In July 1994, the Flint River in my State of Georgia flooded. Several lives and substantial property, including cropland, were lost in that flood.

If a local flood control official in Georgia needs the flexibility to prepare for a future flood on the Flint River, I want that official to have the flexibility needed to do what it takes. I do not want the Endangered Species Act to stand in the way of protecting the lives and property of the people I represent.

It is only common sense that any major flood is devastating to every plant and animal in its path.

Let's not be fooled into believing that an otherwise preventable flood will not further endanger the very plants and animals the Endangered Species Act was designed to protect.

Mr. LEVIN. Mr. Chairman, I am adamantly opposed to H.R. 478. This legislation is a transparent effort to gut the Endangered Species Act.

Supporters of this bill would have us believe that the Endangered Species Act was somehow responsible for the tragic floods that occurred earlier this year in the Midwest and California. There is simply no evidence to support their claim that the Endangered Species Act was in any way linked to these events. Both the Interior and Commerce Departments have emphatically stated that there were no cases where it could be demonstrated that the implementation of the Endangered Species Act caused any flood structure to fail. The truth is that the floods in California and the Midwest were the result of storms that were unprecedented in recent history. Reservoirs and levees were simply overwhelmed.

It should be noted the Endangered Species Act already contains emergency waiver provisions that permit the President to grant exemptions to ESA regulations in major disaster areas.

The legislation before us would undermine the basic protections of the Endangered Species Act. H.R. 478 would prevent species protection from being taken into account at any existing dam, levee or flood control project, even in cases where there is no conceivable threat to public safety.

Earlier this week, I received a letter from the sponsor of this legislation that contained a picture of water pouring over a breached levee with the admonition, "Let's work to Prevent this from Happening. Support H.R. 478." I wonder that the author of this letter did not also attempt to link the Endangered Species Act to last summer's crash of TWA Flight 800 or, for that matter, the sinking of the Titanic. Even the name of this bill is misleading. The "Flood Prevention and Family Protection Act" will neither prevent floods or protect families.

We should do everything humanly possible to reduce the possibility of future flooding. To that end, we must look to the real causes of these disasters. We should not use these tragedies to undercut the Endangered Species Act. I will support the substitute offer by Mr. BOEHLERT which allows repairs to flood control projects to go forward anywhere there is an imminent threat to human lives or property. Should the Boehlert substitute fail, I urge the defeat of H.R. 478.

Mr. MILLER of California. Mr. Chairman, the assault on the basic environmental laws of this country is underway once again on the floor of the House of Representatives. Some 2 years ago, it was the "logging without laws" rider that legitimized devastating timber practices in utter disregard for the Nation's environmental protection and resource management laws.

Now we are presented with H.R. 478—the "levees without laws" proposal. This legislation pretends to be responsive to the victims of recent flooding, but its provisions go far beyond flood relief.

"Levees without laws" pretends to promote protection of families. But it really protects those who would sanction the permanent management of dams and other facilities without regard for the ESA, regardless of any danger of flooding.

We are once again being asked to legislate by anecdote: A Member cites a case where a levee failed, although there is plenty of doubt—and no real evidence—that the ESA had anything to do with that failure. And off we go: waiving the ESA on every flood control facility, anywhere in America, for repairs, reconstruction, maintenance, whatever; not just for this flood season, not just for imminent flood threats, but for any reason, and forever.

Let me tell you how far-reaching and damaging H.R. 478 would be, because the impact of passing this bill will not only be on the endangered species. It will be on your water districts. On your constituents who enjoy fishing. On commercial fishing operations. On logging companies and employees in your districts. On the economy of towns and counties you represent.

This bill doesn't wipe out the ESA, much as its sponsors would like to do. It just creates a great big exemption for levees and dams and other flood control facilities. Let me tell you what that means. If these projects are excused from making their contribution to ESA protection and mitigation, the whole burden is going to pass to those further downstream whose actions may impact on the species. The flood control district may escape its responsibilities, the farmer may escape his responsibilities. But that means that all the more impact will be felt by those other individuals, businesses, and activities that also affect the species.

This is directly contrary to the way we have been moving in species management protection. In California, where few have thought there was much chance for it, we have brought irrigators and cities and environmentalists and fishermen together and pounded out agreements on how to apportion water and how to manage our resources. It isn't easy and it doesn't always work quickly; but everyone stays at the table and negotiates because they know their interests are best protected by their being there and participating.

But H.R. 478 tells the levee districts and the flood control districts: You're free to do whatever you want that affects endangered species, as long as you can call it maintenance or repairs or operations. You get to get up and walk away from the table, and pass all those responsibilities and burdens on to other people and economic interests in your community.

You alone do not need to consult with anyone else; you do not need to participate in the species protection program, even though excusing you may well double or triple the burden for the logging industry, or municipalities, or the fishing industry, or the recreation industry.

This isn't speculation; this is what is going to happen if we exempt maintenance and operational requirements of dams to protect endangered fish, like salmon in the Pacific Northwest. That is what H.R. 478 will do. The Everglades ecosystem could be devastated if the central and south Florida flood control project no longer has to consider endangered species with respect to water diversions and flows. Decisions on outflows in the Sacramento-San Joaquin Delta and San Francisco Bay will no longer have to consider impacts on delta smelt or winter run chinook. In the Upper Colorado Basin, purchases, sales, and exchange of water rights, which users have come to rely on, would cease.

That is what H.R. 478 will do.

Now, no one—and I stress that again, no one—is saying that the ESA should interfere with efforts to repair and rebuild damaged facilities, or to make necessary repairs to prevent flooding from occurring. The Fish and Wildlife Service has approved such waivers. The Army Corps of Engineers has agreed. An amendment to rewrite H.R. 478 to permit those emergency actions is going to be offered later today by the gentleman from New York [Mr. BOEHLERT].

But that is not what H.R. 478 does.

There is no urgent need for those provisions of H.R. 478 that go beyond the relief for flood victims and prospective flood areas, as provided in Mr. BOEHLERT's amendment. The additional issues raised in H.R. 478 are extraneous to the debate over flooding. They deserve to be addressed during the comprehensive debate over reauthorization of the Endangered Species Act in the Committee on Resources. Our committee, however, has not yet begun that debate, and it is premature and inappropriate to bring these complicated issues before the House when we simply will not have the time nor expertise to address such wholesale changes to the ESA.

Let us keep the focus where it belongs today: On the floods of 1997 and what we should do to alleviate the damage and loss of those who have suffered or who might suffer from future flooding.

As both the Corps of Engineers and the Department of Interior have stated, as many of the witnesses that testified at our hearing stated—the California levees broke because there was too much water, not because of the ESA. The rains and the melting snowpack combined to produce water that were 10 times the normal rates in some cases.

Waiving the ESA is not going to stop floods. We have to consider many options: restoring channel complexity, wetlands protection, and setback levees, so that we can catch the water where it falls instead of dumping it down stream. We need to look at forest management policies that allow upstream clear cutting and the construction of logging roads which lead to erosion and slides that not only destroy valuable fisheries habitat, but contribute to downstream floods as well.

We should provide more direct and indirect aid for moving homes and businesses out of the hazard zone, and we must limit the circumstances where we will permit the use of Federal funds to rebuild in harm's way. Existing levees systems should be re-engineered to ensure that they maximize flood hazard reduction. Rather than relying solely on repairs to existing levees, the Corps of Engineers should review the causes of the breaks and determine whether levees should be moved or constructed differently to withstand future floods. Finally, we need to look at how project planning and contracting processes and local funding issues slow the repairs and maintenance that need to be done.

This bill does not address any of those problems, however. Instead, it focuses on one single aspect of the flood control planning process and takes a sledge hammer to the ESA.

Please remember this bill is not about flood protection. It is an initial, and a sweeping, weakening of the Endangered Species Act that applies to any activity, on any flood control project, at any time, rain or shine. Flooding, or the threat of flooding, does not even have to be an issue.

If this bill passes, no flood control project will ever be required to mitigate for its maintenance activities ever again. Nor will there be a requirement for mitigating the impacts of replacement, repair, rehabilitation, or operational activities regardless of whether these activities were conducted to protect human lives or property, and regardless of the impacts on endangered species.

Now if there were no alternative but to choose between human lives and property or an endangered species, the argument would be different. But there is an alternative. We can provide the flexibility that is needed in the event of floods and flood threats, and we can do that without destroying the Endangered Species Act. We can achieve those goals by supporting the Boehlert substitute without modification when it is offered.

Mr. PACKARD. Mr. Chairman, it is unbelievable that an outdated law to protect endangered species is causing catastrophic harm to animals, humans, and agriculture. In my home State of California, the floods of 1997 have already caused the deaths of nine people and more than $1.6 billion in total damage. If flood control structures had been properly maintained, this loss of life and property could have been avoided. Unfortunately, the Endangered Species Act prohibits much-needed maintenance of these areas. In fact, the very animals who kept the flood control structures from being repaired in the first place were also displaced and killed by the devastating floods.

In January 1997, California experienced the worst flooding in State history. However, California was not alone. Numerous other States were ravaged by flood waters. Most recently, the citizens of North Dakota saw the waters destroy their towns and homes. It is horrible to see the loss of life and property which resulted from the devastating floods. However, it is far worse to realize that some of this damage could have been avoided.

Mr. Chairman, I applaud my dear friend and colleague WALLY HERGER for introducing the Flood Prevention and Family Protection Act which attempts to prevent the disaster of flooding. As a proud cosponsor of this bill, I know that we must prevent these disasters before they occur. Once the floods have destroyed our homes, there is little we can do to restore the photo albums and family treasures. However, we can take the appropriate steps toward avoiding future flooding problems by enacting this bill. This legislation will allow for proper maintenance, repair, and reconstruction of existing dams, levees, and other flood control systems. Not only will this bill save lives and ecosystems, but homes and family memorabilia. I am very pleased to support this legislation today.

Ms. ESHOO. Mr. Chairman, I rise in opposition to H.R. 478, the so-called Flood Prevention and Family Protection Act of 1997.

This bill will not provide any more protection beyond current law to those who live in areas threatened by flooding. Instead it will create a giant sinkhole in the Endangered Species Act.

Right now, without passage of this bill, the Endangered Species Act has provisions that allow for expedited review for improvements or upgrades to existing structures in emergencies.

This bill will permanently exempt the reconstruction, operation, maintenance, and repair of all flood control projects, including dams, hydroelectric facilities, levees, and canals. This means that operations like those designed to revive the salmon on the Pacific Coast could be threatened and possibly suspended. As Secretary of the Interior Bruce Babbitt has pointed out this could exempt the entire Columbia River basin from provisions of the Endangered Species.

Some Members have said that the Valley elderberry longhorn beetle delayed repairs which caused the levees to collapse. However, as my colleague, Mr. MILLER, has pointed out the levees that failed in the Central Valley failed not because they were not repaired, but because there was 10 times the amount of water than the levees were designed to withstand.

H.R. 478 is not a flood prevention bill. Instead it is a backdoor assault on the Endangered Species Act, and I urge my colleagues to adopt the substitute offered by Mr. BOEHLERT and Mr. FAZIO and reject H.R. 478.

Ms. PELOSI. Mr. Chairman, the bill before us today is an ill-advised, destructive approach to a law that was intended to protect species from extinction, not to be manipulated as a substitute for poor disaster response.

Natural disasters affect human lives and can be devastating to local communities and economies. My community has certainly experienced its share of natural disasters and I know firsthand the difficulties people encounter in rebuilding their homes and lives in the aftermath of such devastation. We should be sensitive and responsive to these human needs, and we should address them on an immediate basis. Residents in flood-prone areas should be protected and added steps can be taken to ensure the safety of people and their property in these areas. Response to the California flood disaster should not be used as an excuse to obliterate the law that gives lasting defense to the survival of threatened species on Earth.

In an emergency threatening human lives the current law provides for the Endangered Species Act to be waived.

But H.R. 478 goes to the extreme in allowing a nonemergency exemption of the act with the result of permanently decimating the intent of the ESA. It would codify actions now considered damaging to the protection of species the law was intended to protect. H.R. 478 will not prevent floods, but it will prevent needed environmental protection of threatened species.

The Pacific Coast Federation of Fishermen's Associations advises a vote against H.R. 478 on the basis of the potential threats to restoration of northern California salmon populations under the ESA. In their letter they emphasize:

The California Central Valley is the source of most of the West Coast's remaining salmon harvests. Eliminating ESA-driven water reforms in the California Central Valley Project would seriously damage Washington's Oregon's and California's salmon harvests, wiping out tens of thousands of fishery jobs as far north as Alaska which those resources now support.

The arguments linking flood damage to the ESA are unfounded. In the Statement of Administration Policy, OMB states:

The administration of ESA by the Fish and Wildlife Service [FWS] and the National Marine Fisheries Service has not resulted in significant delays in construction or proper maintenance of flood control facilities. For example, during the recent California flooding, FWS implemented ESA provisions which allowed emergency actions in disaster areas to be taken quickly without the Act's normal "prior consultation" requirements.

In the Dissenting Views filed with the committee report to H.R. 478, it is noted that both the Department of the Interior and the Corps of Engineers,

were emphatic that there were no cases where it could be demonstrated that the implementation of the ESA caused any flood structure to fail, or where the presence of any listed species prevented the proper operation and maintenance of flood control facilities.

H.R. 478 is a misdirected attack against an imaginary enemy. The Endangered Species Act did not cause California's devastating floods. Our response to this disaster can be positive—let's repair or replace the damaged flood control facilities under the current ESA waiver and work together on sound water management policies that will protect people and the environment into the future.

This is the most important environmental vote to come before the House in this session. We should not revisit the rancor of the last Congress where the majority went against the mainstream of public sentiment which favor greater protections for our environment. In a letter to Members of Congress, the President of Republicans for Environmental Protection states that

the American people do not want to see our environmental laws weakened. And they certainly do not want to see such things accomplished by bad, opportunistic legislation such as H.R. 478.

I urge my colleagues to join the bipartisan initiative and support Boehlert-Fazio amendment and to vote against final passage of H.R. 478.

The Endangered Species Act must not be another casualty of the floods.

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

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute printed in the bill shall be considered by section as an original bill for the purpose of amendment, and pursuant to the rule, each section is considered read.

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 read.

The Clerk will designate section 1.

The text of section 1 is as follows:

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 "Flood Prevention and Family Protection Act of 1997".

Mr. POMBO. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

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

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. PURPOSE.

The purpose of this Act is to reduce the regulatory burden on individuals and local, State, and Federal agencies in complying with the Endangered Species Act of 1973 in reconstructing, operating, maintaining, or repairing flood control projects, facilities, or structures to address imminent threats to public health or safety or catastrophic natural events or to comply with Federal, State, or local public health or safety requirements.

SEC. 3. AMENDMENTS TO ENDANGERED SPECIES ACT OF 1973.

(a) ACTIONS EXEMPT FROM CONSULTATION AND CONFERENCING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following new paragraph:

"(5) Consultation and conferencing under paragraphs (2) and (4) is not required for any agency action that—

"(A) consists of reconstructing, operating, maintaining, or repairing a Federal or non-Federal flood control project, facility, or structure—

"(i) to address a critical, imminent threat to public health or safety;

"(ii) to address a catastrophic natural event; or

"(iii) to comply with Federal, State, or local public health or safety requirements; or

"(B) consists of maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control project, facility, or structure, including operation of a project or a facility in accordance with a previously issued Federal license, permit, or other authorization.".

(b) PERMITTING TAKINGS.—Section 9(a) of such Act (16 U.S.C. 1538(a)) is amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity—

"(A) consists of reconstructing, operating, maintaining, or repairing a Federal or non-Federal flood control project, facility, or structure—

"(i) to address a critical, imminent threat to public health or safety;

"(ii) to address a catastrophic natural event; or

"(iii) to comply with Federal, State, or local public health or safety requirements; or

"(B) consists of maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control project, facility, or structure, including operation of a project or a facility in accordance with a previously issued Federal license, permit, or other authorization.".

The CHAIRMAN. Are there any amendments to the committee amendment in the nature of a substitute?

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment. It is printed in the RECORD as No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. POMBO:

Page 3, after line 12, insert the following new line after the word 'authorization':

where necessary to protect human life or to prevent the substantial risk of serious property damage.

Page 4, after line 8, insert the following new line after the word 'authorization':

where necessary to protect human life or to prevent the substantial risk of serious property damage.

MODIFICATION TO THE AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I ask unanimous consent to correct line references in my amendment as follows:

The reference to page 3 after line 12 should be page 3 after line 15, and the reference to page 4 after line 8 should be page 4 after line 12.

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

There was no objection.

The text of the amendment, as modified, is as follows:

Page 3, after line 15, insert the following new line after the word "authorization": "where necessary to protect human life or to prevent the substantial risk of serious property damage".

Page 4, after line 12, insert the following new line after the word "authorization": "where necessary to protect human life or to prevent the substantial risk of serious property damage".

Mr. POMBO. Mr. Chairman, in an effort to reach a consensus on this bill we have worked long and hard. I have met with Members of the minority repeatedly, I have met with Members of my own party who had concerns repeatedly. We have narrowed the bill substantially from the way it was first introduced. But as of last night, or as of yesterday, there were still concerns

that maybe the bill could be interpreted to be more broad than the intention.

Because of that and in consultation with the gentleman from California [Mr. CAMPBELL] a decision was made that we would add additional language to the bill which would narrow the scope and meet his concerns.

Having said that, I yield to the gentleman from California [Mr. CAMPBELL].

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

Mr. Chairman, for purposes of debate, what I would like to do is inform my colleagues and friends on the other side of this issue that I would like to use the 4 minutes, but then I would be happy to engage in debate with any colleague on their time. I will stay here for that purpose.

Here is what my amendment does: I believe that the present Herger-Pombo bill is too broad. I have great respect for my two colleagues from California, but I believe they created an exemption that was too broad. So I began to speak with them and I said, "What is the real focus of your concern?" They point out that the real focus of their concern is when a levee bursts, when there is harm to human life or substantial risk to properties in that kind of context.

So I said, "Why do we not limit your amendment to the specific cases we just discussed?" They agreed. Here is what the amendment says: After all of the provisions that we have talked about regarding a maintenance, rehabilitation, repair or replacement of a Federal or non-Federal flood control project, after all of those, the limitation would now be imposed: "where necessary to protect human life or to prevent the substantial risk of serious property damage."

That being my amendment, I offered that to my colleagues; and they were kind enough to say that they would accept it. I put to my colleagues, give me the case when you would not be in favor of expediting maintenance, rehabilitation, repair or replacement when it is necessary to protect human life? I just do not think anyone would have such a case. Or where it is necessary to prevent the substantial risk of serious property damage?

With that limitation, it is no longer true that the Herger-Pombo bill runs a serious risk of "blowing a hole in the Endangered Species Act." The bill is now limited to restoration of existing projects that already have a Federal permit where necessary to protect human life or prevent the substantial risk of serious property damage.

It was raised in debate by one of my colleagues, the gentleman from New Jersey [Mr. PALLONE], that we ought to await the comprehensive Endangered Species Act reform before adopting an amendment such as mine, or a proposal such as mine.

I remember when I first came to Congress in 1989, we began talking about the Endangered Species Act. When I left in 1992, we were still talking about the Endangered Species Act. We never got a chance to reauthorize the Endangered Species Act. We are really playing with people's lives to say, let us wait until we have the overall omnibus Endangered Species Act.

What we have now is a proposal dealing with a specific crisis and the steps necessary to prevent other crises. I would love to see the Endangered Species Act amended in order to take this into account, but we cannot wait for that to happen.

Lastly, in my opening remarks, the subject of the Boehlert amendment has been raised. I have a very good friendship with the gentleman from New York [Mr. BOEHLERT]. I admire him immensely. But I do refer to the fact that his amendment refers to imminent threat, there has to be an imminent threat—except for the case the repairs of those properties that were damaged in California in the most recent flooding. Imminent threat means that the water is already rising.

Mr. BOEHLERT. Mr. Chairman, would the gentleman form California yield?

Mr. CAMPBELL. Mr. Chairman, I cannot, but I am happy if the gentleman would yield me time on his time to conduct a discussion. That was what I said at the start. So I will stay here for that debate, Mr. Chairman. I look forward to debating the gentleman from New York [Mr. BOEHLERT].

But the phrase in the amendment of the gentleman from New York [Mr. BOEHLERT] is, "in response to an imminent threat to human lives and property." And contrast that with my phrase, "where necessary to protect human life or to prevent the substantial risk of serious property damage."

It is all the difference in the world between waiting for the disaster to be so imminent. Are you going to have to build up the berms higher, or can you take the action in advance when the imminent threat is not yet upon you, but where it is wise to act.

I have only one final remark in my opening remarks, and that is that my good friend, the gentleman from New Jersey [Mr. SAXTON], said that my amendment was broad enough so that everything would be included in it. That is not so. Perhaps in debate further I will be able to illustrate why, as my time is presently expired.

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

Mr. Chairman, while the gentleman from California [Mr. CAMPBELL] is there, maybe I can have a colloquy with him. Is it the intent of the gentleman that his amendment will affect all of section B?

Mr. CAMPBELL. Mr. Chairman, if the gentleman will yield, it is my intent to affect all of section B.

Mr. FARR of California. OK. Mr. Chairman, on my own time, the issue raised here is whether this amendment really does anything to the bill. Remember, we are dealing with the issue of flood control projects. Flood control and the purpose of flood control is to control damage done by excessive water.

I do not think that the amendment is material to really what the purpose of the bill is, which is to drive a hole in the Endangered Species Act by exempting from that act consultation for operations. Remember, there is nothing in the language in this bill that even mentions the word "levee," yet everybody who got up and proposed it said that this was a levee bill.

This is about operations of water facilities, operations forever, not just when it rains, not just when there is flood damage, it is operations. Operations is why so many people are concerned about this, particularly the fishermen.

□ 1600

The reason, the gentleman from California [Mr. CAMPBELL] knows, is that in California with the Sacramento River the whole issue of water flow releases is to try to control the water temperature so that we can maintain a salmon run. If there is not enough water, the water gets too warm and then the species that lives in that water cannot survive. So the purpose of trying to make sure that when we are operating a flood control district, that we consult in this process, is so that we get all of the concerns on the table.

The Corps of Engineers has interpreted this "structures and projects" to mean dams, to mean pumps, levees, dikes, channels, draining systems, dredging projects, reservoirs, and even beach erosion control. In the committee the issue was raised that it was going to include beach erosion control, and the author indicated that he would accept an amendment to that, although we do not see it in the bill at all.

So the bill on the floor with the gentleman's amendment I do not really think ensures that we are going to be able to continue to maintain these facilities for all the interested parties that rely on water usage, and that is the purpose of flood control districts.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my purpose in asking for 5 minutes now is to complete my one last comment regarding the point made by the gentleman from New Jersey [Mr. SAXTON], and then to yield to anyone who wishes to engage in debate. I see my colleague from California [Mr. POMBO], wants a word, but let us save some time for debate, because I do wish

to have the opportunity for anyone who wishes to debate me on this to do so.

The one last thing I wished to comment on was the point of the gentleman from New Jersey [Mr. SAXTON], Mr. Chairman, and that was that my amendment was too broad because everything would fit in it, in that all flood control is done to prevent risk of loss of life, or serious property damage. This is not quite correct because my amendment deals with maintenance, rehabilitation, repair or replacement; it does not deal with construction.

For instance, once the flood control device, the berm, has broken, then there is no further imminent loss of property, nor any further imminent loss of life. The imminent loss of life, the threatened, or the likely prospect of it, is when the tension is building up behind the berm. Once that is broken, as to whether that particular part is reconstructed or not would no longer pose a question of the necessity to protect human life, because it has already broken, that pent-up pressure is gone. Nor would it any longer present a substantial risk of serious property damage.

So I hope that answers the question of my good friend from New Jersey. I would be happy to yield to him further if he wants to respond to it. But I believe I responded to his point. I believe I responded to the other points, as well.

This is a sensible improvement on Herger-Pombo. I do not see anyone in the Chamber who ought to oppose this amendment. I would go further to say that this makes a such a further improvement that the Boehlert amendment is unnecessary, and on that there may be further debate. However, on whether my amendment is desirable, I just do not think there is further dispute.

Mr. Chairman, I yield to my friend, the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding. I just wanted to add, in response to a statement by the gentleman from California [Mr. FARR] and the gentleman from California [Mr. MILLER], even if this legislation were to pass and be signed into law, I have a list from an environmental impact statement for the Sacramento River system control plan which listed the following Federal laws which must be complied with before the levee repairs could begin:

National Historic Preservation Act, Archaeological and Historical Preservation Act, Archaeological Resources Protection Act, Preservation of Historic Properties, Abandoned Shipwreck Act reviews, Clean Air Act, Clean Water Act, Coastal Zone Management Act, the Endangered Species Act, the Estuary Protection Act, the Federal Water Project Recreation Act, and it goes on and on and on. It has over 20 Federal laws and State laws that we had to abide by before we could repair the levee.

All we are asking for is to allow us to maintain our levees. That is all we are asking for, to protect human life and private property. This is not that difficult.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, I will now yield to anyone who wishes to debate me on this amendment. If there anyone who wishes to debate me?

Mr. FARR of California. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. FARR of California. Mr. Chairman, why is the word "levee" in here? It is projects. It is all of these projects.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time so that I might respond, there is more then one form of flood prevention, and a levee would be only one form. There are other forms of flood prevention.

Mr. FARR of California. Mr. Chairman, there are dredging projects.

Mr. CAMPBELL. Mr. Chairman, I reclaimed my time to answer the question and I am almost done.

The purpose here is that whatever project it is that will be necessary to prevent—not just be helpful but be necessary to protect human life or to prevent substantial risk of serious injury—I wish to cover; and if that is more than a levee, it is for a good purpose, because it has that qualifier, where necessary to protect human life or prevent substantial property loss.

Now I yield to my colleague. Go right ahead.

Mr. FARR of California. Mr. Chairman, I appreciate that explanation.

My point that I made to the gentleman from California [Mr. POMBO] was that I think the bill goes far beyond what he originally intended, because it goes into projects that are greater than levees. It goes into dredging, it goes into dams, it goes into beach erosion, and I do not think that was what the intent was as a result of the problem that occurred in the Sacramento Valley.

Mr. CAMPBELL. Mr. Chairman, again reclaiming my time, as to all of those, I remind my good friend from California, as to all of those, the language I just announced would apply, that in answer to the gentleman's question earlier, the limitation "where necessary to protect human life" or the limitation "where necessary to prevent the substantial risk of serious property damage" applies to all of B.

Mr. CAMPBELL. Mr. Chairman, I yield to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, it was mentioned, dredging, dams. Could they dredge, if the gentleman's language was adopted as part of this bill, could they go in and dredge under that language?

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, they could, only where necessary to protect human life or to prevent substantial risk of serious property damage. Off the top of my head, that would be a very narrow case.

The CHAIRMAN. The time of the gentleman from California [Mr. CAMPBELL] has expired.

(On request of Mr. VENTO, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

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

Mr. CAMPBELL. I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, the gentleman portrays as a qualification a very high threshold, "where necessary to protect human life or serious property damage." I think I have it right. I was trying to get a copy of it. In searching two areas of the bill, both undertaking to eliminate the clause undertakings and consultation and conferencing, is that correct?

Mr. CAMPBELL. Mr. Chairman, I would say in response, not quite. The phrase is "necessary to protect human life or to prevent the substantial risk," just if I could answer, taking my time back to answer your question fully, "or to prevent the substantial risk of serious property damage."

Mr. VENTO. Mr. Chairman, if the gentleman would continue to yield, of course that is an additional qualifier, risk. So, for instance, if I am riding barges up and down the Mississippi, and I represent a community on the Mississippi, and it is portrayed that in order to maintain the channels so that the barge would not run into one of the wing dams, that then, which would run the risk of deck hands on the barge just falling off and perhaps drowning in the river, would that be an adequate test then, to prevent the loss of these individuals from falling in the river and drowning?

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, not necessarily. The reason is I did not say just to prevent risk or minimize risk or lower risk. I intentionally said prevent substantial risk, which would be to say that you would have to bring the probability of it happening from a high number down to a low number.

Mr. VENTO. Mr. Chairman, if the gentleman would yield down, I think the issue is being portrayed as some sort of a crisis. Is it a crisis to in fact go through the National Environmental Protection Act and the Clean Water Act and other activities, and all of a sudden the Endangered Species Act would not be important in terms of trying to prevent, for instance, that barge, because if we did not have the channel, it might run into a bridge and cause serious property damage?

MR. CAMPBELL. Mr. Chairman, reclaiming my time in order to answer, lest we run out of time.

Mr. VENTO. Mr. Chairman, I would say to the gentleman, I will ask for more time if we run out.

Mr. CAMPBELL. Mr. Chairman, I am just worried that I will not get to answer.

Mr. VENTO. Mr. Chairman, I am pleased because I would not want the gentleman to think that there is not concern or opposition about his amendment or that it solves the problem, because I do not think it does.

Mr. CAMPBELL. Mr. Chairman, I would say to the gentleman to please proceed as long as he likes and then I will respond. I apologize for the interruption.

The CHAIRMAN. The time of the gentleman from California [Mr. CAMPBELL] has expired.

(On request of Mr. VENTO, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 1 additional minute.)

Mr. CAMPBELL. Mr. Chairman, if the gentleman would allow me to say that there is need for something less than imminent risk, because imminent is what the Boehlert amendment proposes, and more than ordinary maintenance. What I am trying to do is get at the prevention where the threat is high.

So if we want to go just with the imminent risk of something about to happen, then that is Boehlert. It is not good enough. Now, however, should we allow any old dredging, any old maintenance without ESA; no, that is not my desire. it has to be to prevent a substantial risk of serious property damage, or necessary to protect human life.

Mr. VENTO. Mr. Chairman, if the gentleman would further yield, the gentleman is a very good attorney and learned in law. The gentleman in the well is just a humble science teacher. But I would suggest to the gentleman that in fact this will be used. As it affects this particular law, I have no objection to it in terms of what is down here. It may be somewhat of an improvement, but I do not think it gets to the criticisms and the concerns that I have and frankly the Boehlert-Fazio amendment deals with in this bill.

I thank the gentleman for yielding.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for his courtesy.

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

Mr. Chairman, I would inquire of the chairman of the subcommittee, I do not think there is any opposition here to accepting this amendment. We believe it is basically a restatement of law, and we have a long night ahead of us.

Mr. POMBO. Mr. Chairman, if the gentleman would yield, I do intend on accepting the amendment.

Mr. MILLER of California. Mr. Chairman, that is fine with us.

Mr. POMBO. Mr. Chairman, if the gentleman would continue to yield, this is a friendly amendment. The committee is in agreement with the work that the gentleman from California [Mr. CAMPBELL] has done and we intend on accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. POMBO], as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. 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. BOEHLERT:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flood Prevention and Family Protection Act of 1997".

SEC. 2. PURPOSE.

The purpose of this Act is to ensure that the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) does not delay flood control facility repairs that are required to respond to an imminent threat to human lives and property.

SEC. 3. AMENDMENTS TO ENDANGERED SPECIES ACT OF 1973.

Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following new paragraph:

"(5)(A)(i) Consultation and conferencing under paragraphs (2) and (4), with respect to a project to repair or replace a flood control facility located in any area in the United States that is declared a Federal disaster area in 1997, shall only be required in the same manner and to the same extent as would be required for that project if it were carried out in the area in California that is subject to the United States fish and Wildlife Service Policy on Emergency Flood Response and Short Term Repair of Flood Control Facilities, issued on February 19, 1997.

"(ii) This subparagraph shall not apply to projects in a Federal disaster area after the earlier of—

"(I) the date the Assistant Secretary of the Army for Civil Works determines that all necessary emergency repairs to flood control facilities in the area have been completed; or

"(II) December 31, 1998.

"(B)(i) Consultation and conferencing under paragraphs (2) and (4), with respect to any project to repair a flood control facility in response to an imminent threat to human lives and property, shall only be required in the same manner and to the same extent as would be required under the policy referred to in subparagraph (A)(i) for a project that is substantially similar in nature and scope.

"(ii) This subparagraph shall not apply after December 31, 1998.

"(C) This paragraph shall not affect the authority of the President under section 7(p).".

Mr. BOEHLERT. Mr. Chairman, this substitute would accomplish what the sponsors of H.R. 478 only claim to do. That is, it would ensure that the Endangered Species Act never subverts emergency work to prevent or respond to floods, while keeping fundamental species protection intact.

Here is precisely what this substitute would do. First, in disaster areas it would allow the repair or replacement of flood control facilities to move forward without prior consultation with the Fish and Wildlife Service. This would mean, to use my opponents' terminology, that no redtape or faceless bureaucrats could prevent emergency repairs from proceeding immediately.

Second, in places that are not disaster areas, let me stress, not disaster areas, my substitute would allow repairs to move forward without prior consultation whenever a flood control project poses an imminent threat to human life or property.

Now, the sponsors of H.R. 478 ought to like that language. It is taken from the one targeted section of their bill.

Third, the substitute makes clear that we are not limiting in any way the President's authority to issue further exemptions in disaster areas.

Fourth, the substitute is an amendment to the Endangered Species Act.

I need to emphasize these points because the opposition has repeatedly mischaracterized this amendment. In this substitute, we have responded to virtually every real concern we have heard about the ESA and flooding. We have heard that the ESA has prevented repairs from taking place. This substitute ensures that repairs can take place.

We have heard that repairs are needed not only in disaster areas, but throughout the country. This substitute addresses potential disasters as well as actual ones.

This substitute clarifies language in the supplemental appropriation that was approved by voice vote, so it can hardly be accused of appealing to a narrow constituency. So what have we done? Again, we have responded to what we have heard is actually or potentially harmful about the ESA and emergency situations.

However, here is what we have not done. We have not used these legitimate concerns as an excuse to undermine fundamental species protection. H.R. 478 would emasculate the Endangered Species Act. Our substitute, while creating new exceptions, would keep the law fundamentally intact.

Most endangered species live along or in waterways. H.R. 478's blanket exemption for flood control projects, even with the language of the gentleman from California [Mr. CAMPBELL], threatens any species that depend on waterways to survive.

The endangered species actions that have been taken to protect salmon, whooping crane, sea turtles, manatees, and other creatures would not have been possible if H.R. 478 had been in effect.

□ 1615

Protecting newly listed species would be virtually impossible under the bill. That is why this bill is opposed by every environmental group, by Republicans for Environmental Protection, by American Rivers, by the International Association of Fish and Wildlife Agencies, by Trout Unlimited, by the American Canoe Association; by just about any group, large or small, that has any interest in protecting our waterways and their denizens.

It is not that these groups do not care about human beings. It is not that these groups are all in agreement on ESA reform. It is that they understand that H.R. 478 is quite literally a case of overkill. My substitute accomplishes H.R. 478's stated objectives without threatening the environment.

Let me add, Mr. Chairman, that I do not claim that my substitute takes care of every legitimate concern with the Endangered Species Act. Some Members, for example, have concerns with the cost of mitigation. But our express purpose here today is to take care of narrow problems related to emergency situations. Mitigation is a broad and fundamental issue that must be addressed in the context of comprehensive ESA reform. I daresay that a comprehensive bill would not reform mitigation in the ham-handed way envisioned by H.R. 478.

Let us not hold up emergency legislation because additional concerns must be addressed at a later time. My substitute would be signed into law and would provide real relief for real people facing real emergencies. H.R. 478 would not be signed into law and will not help anyone. By voting for it, I would suggest Members would be making the wrong move. I urge my colleagues to support balance, moderation, a real solution for a legitimate problem.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the so-called Boehlert amendment, here, let me go through something. It fails to protect human life and the environment. It is too little too late. It allows only emergency repairs when disaster has already occurred or is threatening. By the way, it protects Federal employees from the ESA penalties for impacting habitat, but keeps the penalties for local officials. It ties their hands. They cannot maintain these levees.

By the way, it is only temporary. I want the gentleman from California [Mr. FAZIO] to hear this, it is only temporary. It is only temporary. It is only temporary until 1998. It retains unfunded mandates on States and local governments, and frankly, would continue further delay through encouraging litigation. This is a charade of amendments. This is an amendment that does nothing. In fact, I do not know why the gentleman is even offering it. It does nothing, absolutely zero.

May I remind the gentleman, it says, "This paragraph shall not apply after December 31, 1998." That says you only have time to repair the existing breaks, the ones that broke. I am not really worried about the ones that broke, and I feel sorry for the people, but I want to prevent those breaks and the dollars we have wasted. May I stress, $10 million was used to mitigate. They finally agreed last week to repair the levee. It was supposed to cost $3 million, now $13 million. The levee breaks, which we were told it was going to break, and we lose the lives, we lose the property, and guess what, we lost the habitat. We lost the habitat. We ought to be proud of what the ESA has been able to do.

Mr. Chairman, this amendment guts the so-called Herger-Pombo bill. I think that is really what they are trying to do is gut it. They are trying to put a charade out and trying to protect a few people who might be directly affected by supposedly not supporting the Pombo-Herger bill, but in reality, it does nothing. It, in fact, is worse, because it takes the California doctrine and applies it to the rest of the Nation.

As I have told people before, if they want California's problems and the bureaucracy, then vote for the Boehlert amendment. Mr. Chairman, I suggest respectfully, if Members want to solve a problem, then they will vote for the Herger-Pombo bill. They will make this bill a reality. They will make this bill save lives, save property.

By the way, I heard somebody today say we have to change the way man is living. We have to give more room to let the water go out and meander like it did back in the year 1600. Think about that a moment. That means the whole city of Houston is gone. Some people might like that. It means the whole city of New Orleans will be gone. I would not like that. It means probably Sacramento would be gone, too, period, and flooded out. I am sure the gentleman from California would not like that.

Probably, I might suggest respectfully, if we want to follow this theory of the so-called environmental groups who are supporting Boehlert, we all ought to be drowned. Think about that a moment. I will admit, I lived on a levee. I was born on the Sacramento River. I looked out on that river every morning when I got up. I watched it flood.

Yes, we could not dredge. I admit that now. Then we did. I will tell the Members something; those levees were built way back during the Gold Rush days. We rebuilt them. It has given California one of the finest standards of living in the world. It has protected people and property, and it is a system that does work.

We can talk about the thousands and thousands and thousands of acres and feet of water that go down and are wasted and going into the ocean, and by the way, I want the gentleman from California [Mr. MILLER] to hear that. We had a drought in California a few years ago, does the gentleman remember that? We had no water. Now they have water clear up to their elbows.

I am suggesting respectfully if they want to take and have the Endangered Species Act, stop repairing those levees, then, very frankly, they can vote for the Boehlert amendment. We can forget lives, we can forget property, we can forget those people that live all around this great Nation of ours near water flow.

I know some of us would like to have more wetlands. I know how they can create wetlands. They can flood Sacramento, the city of Sacramento, the capital, by the way; they can flood every major city, and they will have wetlands. I do not believe in that. I think it is important we allow this tool to be available for the local people, that this tool be available for the Federal people, so we can in fact solve the problems of the flood.

It is wrong not to maintain these levees. Some people say they did not cause the flood. We have documentation with the Corps of Engineers where they did say this area will break if it is not addressed, and it did break. So do not tell me that these areas did not create floods.

I will say, every break, by the way, is not caused by the Endangered Species Act, but we can have both. We can have the Endangered Species Act and we can have the people.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(On request of Mr. POMBO and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, we can have the endangered species protected and the people protected. I want to keep stressing that. We have heard people talk about my wanting to repeal the Endangered Species Act. I never attempted to repeal the Endangered Species Act.

I had 17 hearings with the gentleman from California [Mr. POMBO], and we had hundreds of witnesses testify before us that the system is not working, and I want to fix it. I want to protect the endangered species, but I want to also have man's involvement in the protection of the endangered species. I do not want to join the SSS's club. I don't want to belong to that club. Some Members want to shoot, shut up, and shovel. I do not want anything to do with that. What I want is protecting the species, and the act today is not working.

I asked the gentleman from California and this administration, Mr. Babbitt and Katie McKinney and the President, to come down and give me

some suggestions. They did not do that last year. They sat quietly and beat our brains out because we tried to improve the act. They said we tried to repeal it. We did not do that. We tried to improve it, and it should be improved.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has again expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I tried to make the point in general debate, and as the gentleman knows, we have levee failures in our State and we have had them across the country, and there is very little or sketchy evidence, in my opinion, that says it is due to ESA.

But also, the Corps of Engineers in fact requires annual maintenance of the levees that includes mowing, burning, vegetation removal, filling in of burrow sites; all of the things the gentleman and I associate in the Sacramento Delta with that.

Mr. YOUNG of Alaska. Reclaiming my time, Mr. Chairman, only if it is in consultation with the Fish and Wildlife, and they agree to it.

Mr. MILLER of California. This is an annual requirement of the maintenance of the levee by the Corps. Fish and Wildlife signs on.

Mr. YOUNG of Alaska. If it is a federally controlled levee. If it is a district, such as in the Sutter Basin, if that is under district control then Fish and Wildlife can only give them the authority, and they do not have that authority. That is what happened out in the Yuba County area. They would never give them the right to do that.

Mr. MILLER of California. That is not the case, if the gentleman will continue to yield, Mr. Chairman. Both in the Chowchilla River and in the San Joaqain there were perfectly annually maintained levees that failed because instead of 8,000 cubic feet, Yuba was more, and that was not about maintenance.

Mr. YOUNG of Alaska. Reclaiming my time, we cannot say there will never be another flood, I will not say that, but it is ridiculous to allow a flood because we were supposedly protecting the habitat of the elderberry beatle, which they have never seen, by the way. This is the greatest thing in the world. They were protecting the habitat, the elderberry bush, when the levee went out. Guess what, this took the elderberry bush. So what have we accomplished, besides losing 3 lives and millions of dollars? Why cannot we take those few dollars we have left in the Treasury and address that problem?

Mr. Chairman, I am just suggesting what we have to do is vote down the Boehlert amendment. Very frankly, it is ill-conceived. It is an attempt to gut the bill. I understand where the gentleman is coming from. But the bill as written by the gentlemen from California, Mr. WALLY HERGER and Mr. POMBO, as it came out of the committee is a bill that will solve the problem.

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

Mr. Chairman, I think it is appropriate, as we discuss this amendment, to consider what is happening in California as repairs to levees are proposed. We heard the testimony of flood managers and levee managers from California before this bill was passed through our committee. I want to give an example of what happened, as the chairman of our committee just alluded to.

A repair was requested to a project in California on the west bank of the Mokelumna River that would involve approximately .37 of an acre, one-third of an acre. This is what the Interior Department required in a letter of instruction to those wanting to repair the levee.

First, they would have to find every single elderberry bush in that one-third of an acre and transplant it. They would have to transplant it to an acreage five times as big. They would have to plant new elderberry bushes, five times as many as they transplanted from the old site. In addition, biologists had to be on site to monitor the transplanting of these elderberry bushes.

Second, they had to provide to a resource agency or a private conservation organization fee title. They had to buy the land and give it to this organization to maintain these elderberry bushes. It had to be maintained, and money had to be provided to maintain it in perpetuity. Understand, the levee may not be maintained in perpetuity, but the elderberry bushes will be.

Third, the qualified biologists had to be on site managing everything that was done. There had to be written documentation that all conditions would be carried out in perpetuity. There had to be an annual assessment of the facility to mechanically pull out any weeds. Biologists and law enforcement agencies had to have full access to the project at all times to monitor it. Permanent fencing had to go up.

Every five elderberry seedlings had to have two other types of species planted next to it, because apparently the beatles like other species. Every year for a period of 10 years, qualified biologists had to come in, assess the elderberry bushes, and make reports. Maps showing where every individual adult beatle was and the exit holes that were observed in each elderberry plant had to be analyzed, the survival rates of the plants and the beatles had to be reported on. Get this, the on-site personnel, who were supposed to be repairing the levee, had to go to school for instructions regarding the presence of elderberry beatles. They had to go to beatle school.

Mr. Chairman, all of this was done for one-third of an acre. I have showed Members the large book. The bill we are debating today does not say you cannot protect these beatles. It does not say you cannot have sites to put elderberry bushes and raise beatles on if you want to do that. It simply says that the money that was to be spent on this one-third acre to construct the repairs to this levee should be spent to repair this levee, and not to do this beatle protection program.

It simply says that when this levee was in dire need of repair, we should have done it. We should have done it on time. We should have saved those five lives that were lost in California because levees like this failed. It says that across America we ought to recognize that the good environmental things we do to protect beatles are fine, and we ought to find the money and fund it to do that if they are important to us, but we ought not to take it out of funds necessary to repair bridges and levees.

The Boehlert amendment says, in effect, that this California system ought to be the system we use across America.

□ 1630

In Louisiana, when the Mississippi levee, as it is in north Louisiana, is 6 feet too short, we are in serious trouble and we have to do a mitigation program, too, like the California program. Unless the flood is imminent and we are about to be flooded, the Boehlert amendment gives us no relief. In fact, the Boehlert amendment says if we do not build the repairs before a certain date, forget it; we still have to go through the beetle program of California.

The Boehlert amendment says, in effect, that in Louisiana and every State, we are going to get letters like this compelling our levee managers to do what they had to do in California. The Boehlert amendment says that we are going to see loss of lives in our State like we saw in California.

We maintain levees all over my State. Levee managers try to do a good job. When the Federal Government contributes a dime to that levee construction, when it contributes one dime, it requires the State manager of the levee or the local manager to assume full liability if the levee fails.

Here is the situation. The Federal Government says: You are fully liable if the levee fails; but, by the way, if you try to fix it, we are going to put you in a beetle protection program instead, and you cannot fix the levee.

When it fails and people flood and lives are lost, it is on your nickel; it is your responsibility.

The Boehlert amendment, Mr. Chairman, is a phoney solution. If we want to solve this problem, if we want to make sure that in Louisiana and every State we fix levees, then we need to vote for the Pombo bill.

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

Mr. Chairman, I rise in opposition to the Boehlert amendment and for H.R. 478, the Pombo bill. Let me say first of all that I am as committed as any other American in this country to preserving clean air and water and to preserving wildlife across this Nation. But this debate is not about preserving wildlife and saving species in this country. What we do is we stand here today, 25 years after the Endangered Species Act was enacted, trying to figure out how we got to this position in the first place. The authors of that law never intended for us to have this battle today. What we are standing here talking about is groups that are way out there on the fringe who have figured out a way to use this law to now impose power, their personal agenda over communities across this country.

Do we think for one second that they care about these beetles or these bugs or these snails or these creatures all across the country that in many cases are just used in court documents and have never even been seen by the groups that are pushing to try to save these species? That is not what this is about. This is about power.

If I could engage the gentleman from California [Mr. POMBO] in a colloquy for just a second, let me just show another instance of how we have gotten out of control. Is it true that there is a fly that is classified as a maggot in California that is on the endangered species list and then caused a delay of construction of a hospital that a community needed?

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

Mr. BONILLA. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, yes; that is correct. It was in southern California. It was a fly that was listed as endangered, and the result of that was that we had a hospital delayed because of that.

Mr. BONILLA. It cost millions of dollars, if I am correct.

Mr. POMBO. Mr. Chairman, it was several hundred thousand dollars per fly.

Mr. BONILLA. The groups that are in favor of spending this money and delaying a hospital that a community needed were quoted in an article in the Washington Post as saying that this maggot is actually a national treasure and was worth spending this money on. Is the gentleman aware of that?

Mr. POMBO. Mr. Chairman, I am aware of that. I did see the article that they considered it a national treasure and that it was worth delaying the opening of a hospital for several months and the spending of several hundred thousand dollars per fly by the taxpayers of Riverside County.

Mr. BONILLA. Mr. Chairman, there was a quote that said, it is a "fly you can love."

The point I am making here is that the folks that oppose the gentleman's bill and oppose what we are trying to do here are the same folks that are quoted as saying this maggot is a fly we could love and do not care how it affects the community at hand. That is the point I am trying to make.

Mr. POMBO. Mr. Chairman, if the gentleman will continue to yield, I think that the point is they are opposed to any change in the Endangered Species Act regardless of how good a cause it is.

Mr. BONILLA. Now, what we have had is, we have had people lose their lives in California. When is it going to stop? What we are talking about here is human life. We are talking about human rights. In many cases, these folks who are thinking maybe somewhere in the cosmos up there that perhaps these bugs and beetles and snails are more important. I frankly do not understand how someone can think like that. What we are talking about here today is we are either standing with us for human rights and human life or we are standing with the bugs and the slugs and the scrubs. Get real.

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

Mr. Chairman, this is a difficult situation because I believe that the goals of the bipartisan coalition that supports the Boehlert amendment and the goals of the gentleman from California [Mr. CAMPBELL] and the goals of the gentleman from California [Mr. HERGER] and the gentleman from California [Mr. POMBO] are all the same. But what makes this difficult is that there are two approaches, one which is reasonable and can become law, and the other which is somewhat less reasonable and in my opinion cannot become law.

Why is it that it cannot become law? It is really pretty simple if we know the process in Washington, DC. We have received, for example, strong vibes, strong statements from the administration that it will not become law with the Herger-Pombo language even as amended by the gentleman from California [Mr. CAMPBELL].

So this is an exercise in futility and in fact I will not yield at this time. And so why we would send a bill out of this House escapes any rational explanation that I can think of.

Second, if we send this bill to the Senate, which I do not think we will do unamended, if we send this bill to the Senate, I know some Senators and I know Members of both parties in the other House that will not vote for the Pombo-Herger language either. And as we all know, the Senate requires 60 votes in order to get cloture and to come to a vote on final passage. I do not think there are anywhere near 60 votes in the other House for the Pombo-Herger language. And as a matter of fact, I can count votes pretty well in this House, too. And I do not think the Pombo-Herger language with the Campbell amendment is going to pass in this House either.

So as the accusations have kind of flown back and forth between the bipartisan coalition and those who would like to have it the other way, I think everybody should keep in mind that we both have the same goal and that there is one proposal that can make it to meet that goal, and that happens to be embodied in the Boehlert amendment.

Why can Pombo-Herger become law? Well, it is being advertised as a very narrow bill, which with regard to flood concerns, the bill basically makes significant changes in ESA in the areas under consideration, which are levees. I think it is important for us to recall that most endangered species live along waterways. And so the very critters that ESA tries to protect are being directly and adversely affected in large numbers by the Herger bill. The bill would exempt further from ESA consideration specifically from the requirements to consult with the Fish and Wildlife Service and the takings prohibition any activities related to any existing flood control project.

I must add at this point that I disagree with the gentleman from California [Mr. CAMPBELL], my friend. The reason we accepted his language is because we think it does not change the Pombo-Herger bill at all. The reason for that is that the language that the gentleman from California [Mr. CAMPBELL], my friend, has included is quite specific and is added to the language of the Pombo bill and the language that is added to talks about the routine operation, maintenance, rehabilitation, repair or replacement of Federal or non-Federal flood control projects. And here is the new language: where necessary to protect human life or to prevent the substantial risk of serious property damage.

Why are levees built? Why do they exist in the first place? To protect human life or to prevent substantial property damage.

So the language that was added to the Herger bill simply states again what the purpose of the levee system is and I do not think does anything to change the original intent at all and continues, therefore, to have the Herger language applied to the entire flood control system in our country as we know it.

In addition to that, the law applies, the Herger language applies regardless of whether this is any conceivable threat to the public. This would prevent any project reviewed to prevent damage to existing listed species, and it would make it virtually impossible to protect new species.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SAXTON] has expired.

(By unanimous consent, Mr. SAXTON was allowed to proceed for 2 additional minutes.)

Mr. SAXTON. Mr. Chairman, those are the basic reasons that Secretary Babbitt has indicated some disagreement with this bill. That is the basic reason that I think the President will veto the bill. Those are the basic reasons that I think the Senate will not pass the bill. And those are the basic reasons why I think the bill unamended by BOEHLERT will fail here today.

Now, the Boehlert amendment, on the other hand, will be targeted at what Pombo and Herger claim correctly that their complaint is that ESA prevents vital repairs to levees and other flood control projects, and we agree. We think relief is needed. We believe that our amendment, therefore, will exempt the repair of flood control projects from the consultation requirements of ESA all across the country, not just in California. It applies to both disaster areas and to any place where a project poses an imminent threat to human life or property and, as I said, it applies nationwide.

So this amendment, this bill as amended by the gentleman from New York [Mr. BOEHLERT] can become law. It goes to accomplish the purposes of the gentleman from California [Mr. HERGER] and the gentleman from California [Mr. POMBO]. I believe that we should vote for it on a bipartisan basis. I think we should get behind it wholeheartedly and pass this amendment so that we can have a bill that becomes law.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SAXTON] has again expired.

(On request of Mr. CAMPBELL, and by unanimous consent, Mr. SAXTON was allowed to proceed for 2 additional minutes.)

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

Mr. SAXTON. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, there were two points I would like the gentleman to give a very candid, honest answer to. First of all, is it the gentleman's understanding that the President's veto threat applies to Herger-Pombo even as amended by Campbell.

Mr. SAXTON. Mr. Chairman, I do not believe that the gentleman's well-intended amendment changes the bill at all and, therefore, I believe the President's veto threat remains in effect.

Mr. CAMPBELL. Mr. Chairman, if the gentleman will continue to yield, I am going to ask him a slightly different way. Is the gentleman's understanding of a veto threat expressed by the White House after the White House was informed of the existence of the Campbell amendment?

Mr. SAXTON. Mr. Chairman, it is my opinion that the White House believes, as I do, that the well-intended language of the gentleman from California does not change the bill at all in terms of its practical application to the entire flood control system as we know it in this country and, therefore, it is my opinion, I have not talked to the White House about this, but it is my opinion that the veto threat remains.

Mr. CAMPBELL. Mr. Chairman, has the gentleman talked to the White House or any spokesperson for the White House since the Campbell amendment became known?

Mr. SAXTON. Mr. Chairman, if I may reclaim my time for a moment, before I respond, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I think the gentleman makes a very important point because under the Pombo legislation as amended by Campbell, the threshold that is required is the ordinary threshold we use for any public works project and any maintenance of any public works project, because that is always the rationale for the expenditure of the public moneys.

So we still have the position where we could get into extensive maintenance which could include flushing out the bottom of Shasta Dam and destroying downstream habitat. You could get into massive rehabilitation of levees. You could move levees from 50-year protection to 100-year protection.

So the Campbell amendment simply does not do anything to mitigate the concerns that the White House and many of us have about this legislation, because it is such a low standard. It is the same standard we use for any public works project.

So I think the gentleman makes a very good point, that if we want to take care of this problem and we want to take care of it on a timely basis and we want to respond to these people who have, who have been flooded out and those who may be in the future, the Boehlert-Fazio approach is the only one that is going to get us there.

I thank the gentleman for his remarks.

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

Mr. Chairman, I rise in opposition to this bill and in support of the Boehlert-Fazio amendment.

This measure's portrayal after the floods, the basic underlying measure is misleading and inaccurate and is an attempt to misuse the tragic loss of human life as a basis for a wholesale retreat from the Endangered Species Act.

□ 1645

I would ask those who would disagree with me to simply look at the facts. I sat in the hearing, I heard some of the panels of witnesses, and the Endangered Species Act had, in the final analysis, nothing to do with causing the floods in California and the upper Midwest.

Anecdotal explanations will not do for this debate. According to the preliminary report of California Governor Wilson's flood emergency team, unprecedented water flows were simply too much for that channel. Designed capacities and sustained high flows saturated and further weakened levees. In fact, as the gentleman from California, the ranking member, Mr. MILLER, has pointed out, 10 times the flow capacity.

When one adds to this fact that these levees had silty and sandy soil beneath a top layer of clay, the claims that the ESA or fauna or flora protection are somehow to blame for that, this is clearly the result of a catastrophic act of God and even becomes more ridiculous in considering it.

Blaming the floods of 1997 on the Endangered Species Act would have been like Noah blaming the great flood on the animals he brought with him on the ark. It just does not make sense. It does not add up.

What is evident is the design and intent of some special interests to exploit these human tragedies as a basis and a scapegoating of the Endangered Species Act. This is incredible, it is not fair, and it is not the way we should make decisions or laws.

So why are we here today? We are debating this when there are thousands of flood victims working to rebuild their homes and their lives in the wake of these horribly destructive natural events this year.

Mr. Chairman, the Boehlert-Fazio amendment provides us the opportunity to repair the flood damage that has occurred. I submit that that will carry the day. What we need, of course, is action on that. We need to get the supplemental bill passed. And the fact is that some are trying to use this as a basis to write this measure into law.

Frankly, I thought we were through and had passed the dark shadow of some of the problems in the last session for the last few years that have persisted in the Congress but, apparently, this is yet not the case. Are we to suspend every law and regulation that affects or impacts the construction of water projects? Are we so concerned about the nourishment of beaches that the Endangered Species Act, the National Environmental Protection Act, Coastal Zone Protection, all of that should be disregarded because it represents somehow a qualification or encumbrance on that particular activity? I think not.

I think that this effort is wrong. I think the Boehlert-Fazio amendment is a well-tailored amendment to address the major issue that we have before us. I would hope that this Congress would act positively on that amendment and respond to what is necessary.

This legislation, the underlying legislation, virtually suspends almost all water projects and activities, from dredging, as I said, the channel nourishment, from the law. This would affect almost every district, as some have said, in the country because most of us have some water projects of a sort in our area.

The law actually can work and does work smoothly. From time to time we do run into issues where there are threatened or endangered species, but the type of requirements that were outlined here as an example of redtape, simply do not hold up in most of the jurisdictions that we represent.

This is an important law, along with the other laws that we have to protect clean water, to deal with the issues that arise when water projects and activities go on. It is wrong to scapegoat, as I said, one law in this instance, and I think that the motives and the effect of this is negative and reflects badly on this Congress and body in terms of dealing with facts rather than anecdotal stories.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding to me, and I think he raises a very important point.

If we want to scapegoat the Endangered Species Act, we can, but the mounting evidence is, in these floods, that the Endangered Species Act was a nonfactor. In central California we had 10 times the amount of water come through the river channel than the levees were designed to hold. We had somewhere between 70 and 80,000 cubic feet per second in a channel that was designed for 8,000 cubic feet per second.

Further north in the Yuba City area we had the failure of a levee. We had the failure of a levee in the area of where maintenance was talked about. But the fact of the matter is, over the last decade the Fish and Wildlife Service has signed off on a number of plans.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. VENTO was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman continue to yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, what happened was the local levee agency, the local flood control agency kept coming back to the Corps and making additions to the levees. Change orders.

Those of us who know about military expenditures know the cost goes up because of change orders. They kept changing the design, and in this case the levee. The costs kept going up. They had to come back through budget cycles to get the money. Then the person who lost an open bid to do the work sued, saying the process was illegal, held the bid up and delayed the project. Had nothing to do with the Fish and Wildlife Service and ESA. The fact is they signed off on all these changes on all these projects.

So we can scapegoat the ESA, and people can come down here, and we saw a little while ago in the well, and we can rail against the slugs and bugs and we can rail against the ESA. I would suggest that, for the most part, that is the genesis of this bill.

If we look at the people who are supporting this legislation, they are the same people that supported this legislation in our committee, if the gentleman will remember, that basically just gutted the Endangered Species. They said we can save the species but we could not save the habitat. Hello? Where are the species supposed to go?

So we have the same coalition. We can rail against it and feel good, and we can try to tell our constituents that this levee failed and that levee failed because of the Endangered Species. The gentlemen from Louisiana were up here talking about how they maintain their levees and how they have to dump water into their lake. They are doing that today. They are doing that today.

There is nothing in the Boehlert amendment that requires the California mitigation plan. These are scare tactics. These are simply scare tactics, and the gentleman from Minnesota is making a very good point; that we ought to make this based upon the evidence and the information available. And the evidence and the information available simply does not add up that we should be blowing a hole through the Endangered Species Act with this legislation.

And make no mistake about it, that is what part B of this legislation does, it blows it right out of existence with respect to all of the activities in large, integrated flood control and western water projects. They simply escape their liabilities.

Mr. VENTO. Mr. Chairman, reclaiming my time, I appreciate the gentleman's observations.

I would just point out also that the underlying legislation here is permanent. It is a permanent change in terms of the Endangered Species Act as applies to water projects, which I might add, to my colleagues, is not a small activity that goes on in this country in terms of the amount of dollars. It is an important activity, one that is vital, but it has to be done and channeled.

I would say more often than not that those environmental requirements, including the Endangered Species Act, are the best money we can spend. They are the best money because they have held accountable this Congress from the type of wasteful projects that are repeatedly brought to this floor. So I do not think the environmental laws of this Nation, including the Environmental Protection Act and the others, if anything, they have limited the type of wasteful spending in project after project.

And if it does not work perfectly, let us improve it. Let us not permanently exempt all these projects. Let us adopt the Boehlert and Fazio substitute, which is a temporary fix and something that needs to be addressed.

Mr. SHADEGG. Mr. Chairman, I move to strike the requisite number of words, and I rise to join this debate and speak very strongly in favor of H.R. 478, as amended by the Campbell amendment, which has been accepted, and to speak very strongly in opposition to the Boehlert amendment.

Let me explain my reasoning. We heard a lot of discussion about anecdotal information. I think it is important to focus on the language and the problem that is before us. Let me begin first with the language of the Boehlert amendment and make an argument and make a suggestion for why I think it does not do what is essential at this moment in time.

The Boehlert language says that we could waive the essential requirements only when there is an imminent threat to human lives and property. The key word is "imminent" threat. I suggest we look at those words.

I went to Webster's International Collegiate Dictionary and looked up the word imminent. The word imminent is defined. Two definitions. The first: "Ready to take place." And the second, "Hanging threateningly over one's head."

What that means, Mr. Chairman, is that we would have to wait until the threat was hanging threateningly over our head. We could not do the necessary maintenance until the flood waters were headed our way. That is a serious problem with that language, and let me illustrate that.

In my State of Arizona we do not have waters that rise slowly over a period of days. We do not have waters that rise over a period of weeks. We have flash floods, flash floods that occur in an instant, flash floods that come up within a matter of hours and rise instantaneously.

This language would make it virtually impossible. We cannot predict a summer thunderstorm. We cannot predict the quantity of water that it is going to dump. We cannot predict it in

advance. But under the Boehlert language, since we would have to wait until that threat was hanging threateningly over our head, we would be essentially precluded from doing the necessary maintenance.

Now, let us look by contrast at what has been accomplished with the Campbell amendment to the original Pombo bill. I think it offers ample protection, ample protection for anyone concerned. And why? Why does it go beyond the argument of my friend, the gentleman from New Jersey [Mr. SAXTON], that it does not add anything in the bill? Where is he wrong in that?

Let us look again at the language. The language says that the exemption would apply only where necessary to protect human life or where necessary to prevent substantial risk of serious property damage.

Well, let us go back to the words that are being used. First, it is where necessary. It is not where it would be reasonable for the protection of human life. It is not where it would be good for the protection of human life. It is not limited to where it would be helpful for protection of human life. It does not even apply if it is desirable for the protection of human life. It says, instead, where it is necessary for the protection of human life or necessary to prevent a substantial risk of serious property damage.

Again, let us look at the words and go to the dictionary definition. I pull out Webster's New Collegiate Dictionary and once again the definition of necessary is: "An indispensable item or essential."

We are not talking about just casual need or desire or reasonable or good or helpful. We are talking about where it is essential to protect human life or essential to prevent the substantial risk of serious property damage. That is what we are talking about.

This is not a waiver, a blanket waiver any time anyone feels like it. And as one of my colleagues on the other side pointed out quite early, these issues get litigated. In this case, the litigation will focus on this question: Does someone just want to do this levee work? That does not cut it. Is it good to do this levee work? That would not qualify under the law. If it would be helpful to do the work involved, that does not meet the standard. If it would be desirable to do this kind of maintenance work to protect human life or to avoid a substantial risk of property damage, that does not meet the test.

It is defined, as amended by the amendment of the gentleman from California [Mr. CAMPBELL], as necessary. Understand what necessary means. Necessary means essential or indispensable. That affords the protection which the other side refuses to recognize.

Now, perhaps the arguments on the other side were framed before the Campbell language came forward. Perhaps we discussed the threat of a veto before the President knew of the language. But I suggest to my colleagues that this language does do what is necessary to enable us to prevent and to protect against potential flood damage but not to wait until the waters are literally rising. And in my State of Arizona, that is a condition which cannot be met because of the flash flood conditions we face.

Mr. Chairman, I urge my colleagues to support the bill, as amended by the gentleman from California, and to oppose the Boehlert amendment.

AMENDMENT OFFERED BY MR. DICKS TO AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. DICKS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DICKS to amendment No. 1 in the nature of a substitute offered by Mr. BOEHLERT:

On page 2, line 15, strike "an imminent" and insert in lieu thereof "a substantial".

Mr. POMBO. Mr. Chairman, at this time, I reserve a point of order against the amendment.

The CHAIRMAN. The point of order is reserved.

The gentleman from Washington [Mr. DICKS] is recognized for 5 minutes on his amendment.

Mr. DICKS. Mr. Chairman, I rise to offer this amendment because I agree with the gentleman from Arizona, and I think the words "a substantial threat" are better for us here than an "imminent threat" for many of the reasons he described. I think it will allow earlier action.

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

Mr. DICKS. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I think the gentleman's amendment provides necessary clarifying language, and I am willing to accept that. I think it is constructive, and I thank the gentleman very much.

Mr. DICKS. Mr. Chairman, I ask for a vote on the amendment.

□ 1700

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. POMBO. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman withdraws the point of order.

The question is on the amendment offered by the gentleman from Washington [Mr. DICKS] to the amendment in the nature of a substitute offered by the gentleman from New York [Mr. BOEHLERT].

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

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

Mr. Chairman, I rise in support of H.R. 478 introduced by my friends, the gentleman from California [Mr. HERGER] and the gentleman from California [Mr. POMBO], and in opposition to the Boehlert substitute.

In January 1993 in my district, in the Temecula-Murrieta area of California, over $10 million worth of damage occurred in the old town area of Temecula and Murrieta when the Murrieta Creek overflowed its banks. It is not a theory, it is not my imagination. I was there, I saw it happen.

Interestingly enough, the county of Riverside, the county flood control agency, had for months if not years attempted to get permission from the Federal authorities to do necessary repairs and cleaning out of that Murrieta Creek bottom. They were unable to get those permits. Because of that, that damage occurred. Furthermore, there was so much debris within that creek bottom, it went on down through Murrieta Creek and joined into the Santa Margarita Creek and went on through that area, and there was so much debris, it created an artificial dike for a while while the water accumulated behind it. Eventually that broke, and the water went through and hit the dike that protects the helicopters at Camp Pendleton in California. That dike broke, and that water cascaded without any warning on to the military base and I believe approximately $75 million worth of helicopters were destroyed because of that.

We could have solved that problem. This was absolutely solvable. All we had to do was just clean out that river bottom. We were unable to do it. Fortunately since then we have been able to clean out the river bottom. We have been able to do that but unfortunately with a lot of effort. Just this last year we tried to clean it out, up until just a couple of weeks before the rainy season began, we still had a very difficult time getting the necessary permits to keep it cleared out. I have had a lot of disasters in my county. I am the same county, of course, that had the problem with the fire breaks and the inadequacy of the fire breaks and the Winchester fires in the same year which destroyed many homes of folks that could have been protected if fire breaks had been allowed. This bill does not address that. I would like to get into that somewhere down the road. But it does address necessary protection to flood control channels which protect life and property. If we cannot protect life and property and be Members of this Congress, I do not know what we can do.

Please support the gentleman from California [Mr. HERGER], the gentleman from California [Mr. POMBO] and oppose the gentleman from New York [Mr. BOEHLERT] and let us move forward with this.

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

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York.

I have listened to the debate with a great deal of interest this afternoon. I have heard my colleagues who offer the legislation talk about the intention of the original authors of the Endangered Species Act. They were right. They said we did not want to prevent people from protecting their homes and avoiding calamities and taking steps necessary to repair after.

I have also listened to my colleagues on the side who are pushing the amendment offered by my good friend, the gentleman from New York [Mr. BOEHLERT]. They have said that the purpose of the original Endangered Species Act was to see to it that we protected precious species from being extinguished by the hand of man. Both are right. I think it is good that we should take steps to protect endangered species from being extinguished. I think it is also right that we should protect people. That leaves us a choice between the amendment offered by the gentleman from New York and the original piece of legislation. Interestingly enough at the time that the legislation was written, I was the chairman of the subcommittee. In fact, I was the author of the legislation. I thought it was good legislation then, and I still think it is good legislation. The distinguished gentleman from Alaska, if I recall correctly, was a member of the committee at the time we wrote that legislation. He is now chairman of the Committee on Resources, and I am delighted to see that because he is a fine chairman and a dear friend of mine. But I would observe to my colleagues that in choosing between the extinction and the extermination of species and the protection of human life, the choice here really is quite simple. That is, to adopt the amendment which was wisely and prudently offered by the gentleman from New York [Mr. BOEHLERT] and to reject the basic language of the bill, because the basic language of the bill does not just protect human life, it gives an absolute absolution, it gives an immunity bath to the wiping out of any species in connection with the construction, reconstruction, amendment, repair, or other things of some kind of a flood control project. It goes as far as drains and dams and it goes as far as fishways and protection of fishways. It goes even to things like beach erosion. I am not sure that that is necessary for the protection of human life. It allows anything to be done without any consultation or anything else. The Boehlert amendment says that if there is substantial danger to human life, all those things are waived. Substantial danger. We have just changed it to deal with the concerns that were expressed about imminent.

The bill also affords reasonable time limitations in terms of how long this will go. The Committee on Resources is not going to close up its business tomorrow. It is going to be here. They will have oversight and look at the way that this legislation should be conducted and I think that is the way the Congress should function, and I commend the committee for what it is it does. The legislation they have brought before us is not good legislation. The legislation as amended by the amendment offered by the gentleman from New York would be good legislation. It would be legislation of which we could be proud. It would carry out the two purposes of the debate today. First, the protection of endangered species. If some of the proponents of this amendment would really like to talk to me about what they really have in mind, I would like them to tell me why we ought to wipe out species that are precious in terms of the gene pool, or that lend unique and rare quality to the life that we all enjoy in this world of ours. Or why it would be useful for us to sacrifice those kinds of species when there might be some future importance to them, to human beings going even beyond the simple knowledge that that species might be there.

Let us talk about doing something and doing something quickly. The amendment offered by the gentleman from New York [Mr. BOEHLERT] makes it possible for us to have immediate relief. This legislation will whistle through the House if that amendment is adopted and it will whistle through the Senate because both bodies are looking for something to do. It also will be signed by the President.

Now, the alternative is the adoption of the bill as it is laid before us, an immunity bath for any misbehavior under the Endangered Species Act which would relate to flood control projects. The President is not going to sign the bill as it now is. And so all of us are going to go home and we can tell our constituents about the wonderful speeches we made about how we were protecting people from floods. But the real answer is, if Members really want to protect people from floods, if we really want to do a wise and careful job of legislating, if we really want to protect endangered species and if we want to protect people, if we want to deal with the problems of floods and repairs and to do it responsibly and thoughtfully, adopt the amendment that is offered by the gentleman from New York and reject the bill as it is now drawn.

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

Mr. Chairman, I rise in strong opposition to the Boehlert amendment and in support of H.R. 478. I want to make perfectly clear what is at stake with maintaining and repairing flood control structures across the United States. In 1986, California was hit with what was up to that time the worst flooding in recorded history. This photo shows an example of the devastation. Members can see how the water in Linda in northern California in my district was up to the bottom of the road signs. In that disaster, 13 lives were lost and more than $400 million worth of damage was caused. After this tragic flood, the Army Corps of Engineers spent 4 years to study what levees needed to be repaired. Under the Boehlert substitute, the deadline would have been surpassed because the Boehlert substitute limits the time in which flood control experts can repair the levees to only 1½ years. Our Nation would in fact be worse off under the Boehlert substitute than under existing law which does not limit the window for making repairs nor does it require after-the-fact mitigation. Even if the repairs could be accomplished within the time limit, the Boehlert amendment would still require local communities to pay for costly environmental mitigation after the levee was repaired. The Boehlert substitute makes national law a policy that requires local officials to play Russian roulette with limited tax dollars by forcing them to choose between making necessary repairs or facing undetermined mitigation costs. It writes a blank check for the Fish and Wildlife Service to charge local communities whatever they want in mitigation costs. This is clearly another major unfunded mandate. But by far the worst part of the Boehlert substitute is that it does nothing to prevent flood disasters from occurring in the first place. The Boehlert substitute would only allow flood control structures to be repaired after a catastrophe occurs, only after lives have been lost, and only after the loss of wildlife that the ESA is supposed to protect. Why should a law prevent the repair of a flood control structure only to have that structure give way and take lives and devastate wildlife?

Mr. Chairman, the Boehlert substitute simply defies common sense. Under H.R. 478, flood ravaged areas around the Nation could find comfort in knowing that they will have the regulatory relief necessary to do everything in their power to prevent flooding. When a levee, like this one in this photo, broke in my district on the Feather River on January 2, 1997, three people were drowned. Claire Royal, a 75-year-old retired elementary school teacher, was found drowned near her car in which she had been attempting to flee the flood waters. Marian Anderson, a 55-year-old mother of 10, was found drowned near her car in which she had been attempting to flee the flood waters. Bill Nakagawa, an 81-year-old World War II veteran who served with the famed and distinguished Japanese-American 442d Combat Team, was found drowned in his home a quarter mile away from the broken levee.

Ask yourselves this: Would Claire Royal, Marian Anderson, and Bill Nakagawa, been better off under the Boehlert amendment that only allows repairs after the disaster has hit, or would they have been better off under our legislation, H.R. 478, that allows flood control officials like Mrs. Anderson's husband, the manager of the broken levee, to make the repairs while the sun is shining and the high waters are not present?

Mr. Chairman, the Boehlert substitute is worse than current law and does nothing to protect communities from future devastation from floods. I urge my colleagues to vote "no" on the Boehlert substitute and "yes" on final passage of H.R. 478.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. HERGER was allowed to proceed for 3 additional minutes.)

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

Mr. HERGER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I think the gentleman will be happy to know that we take care of his primary concerns.

First of all my amendment does not deal with only after. We deal with prior to. We have made an adjustment as a result of the Dicks amendment to mine which I accepted. So if there is a substantial threat, we can do the repair work prior to. That is very important.

□ 1715

Mr. HERGER. Mr. Chairman, reclaiming my time, let me ask the gentleman, is their not a 1½ year time limit on his bill? Does his bill not expire on December 31, 1998? Yes or no?

Mr. BOEHLERT. If the gentleman will yield, no. The answer is "no."

Mr. HERGER. It is not written into the bill that it expires?

Mr. BOEHLERT. If the gentleman will yield, I would be glad to respond to the question.

Mr. HERGER. Yes.

Mr. BOEHLERT. Mr. Chairman, what we do is 1998 is the time, and we do this for a very logical reason. What this Congress too often does is passes sweeping legislation for time immemorial. We want to try this as a pilot project. We think our colleague has a good idea; we want to assist him.

Mr. HERGER. Let me reclaim my time. Could the gentleman from New York be specific on when it expires in his legislation?

Mr. BOEHLERT. Sure; the end of calendar year 1998, a pilot program to see how it works.

Mr. HERGER. OK; that is what I thought. I reclaim my time.

It ends on the end of calendar year 1998. That is 1½ years from the day. That does nothing to help future floods. And I might mention this study that was done was asked for in 1986 after another flood there, which I am sure the gentleman from New York may have fought us doing something about then. We did a study that determined the levee that broke where Mrs. Anderson was drowned, the Corps of Engineers in 1990 said that there will be a loss of life unless this levee is repaired. For 6 years the Corps of Engineers jumped through hoops trying to mitigate for an elderberry plant, and, no I will not—tried to mitigate for this.

This is serious. We had three people drown in our district because of those who have taken over the environmental movement, and it will not even allow for simple commonsense legislation that puts people, puts people ahead of endangered species. All we are talking about is repairing levees.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, there is some obligation to go to the accuracy of the remarks he is saying. There is no limitation on debate.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has again expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. HERGER was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the gentleman suggested somehow that the Endangered Species Act prevents these projects from going forward.

Mr. HERGER. That is correct, because it does.

Mr. MILLER of California. I mean the gentleman can stand up in the well and say whatever he wants, but he has some obligation to be accurate. But the fact of the matter is it is a water resources act, so if the gentleman from California does what he wants to do, it requires that mitigation be temporary, not the Endangered Species Act.

The gentleman says the amendment offered by the gentleman from New York [Mr. BOEHLERT] would have prevented the report from going forth; there is nothing in the amendment that prevents the report from going forward. And the gentleman says it would be worse than existing law, and the fact is what he does is waive the provisions of existing law requiring consultation.

So the gentleman can get up here and rail against the Endangered Species Act. We have some obligation to be accurate in terms of the facts we present to the House.

Mr. HERGER. The fact is, and I will reclaim my time, the fact is that the gentleman from New York [Mr. BOEHLERT] stated in a question I asked him that his legislation sunsets on December 31, 1988. That is 1½—I have the time—this is very serious. We have lost three of my constituents in this levee break because of an Endangered Species Act that for 6 years kept mitigating for an elderberry plant and put a plant—Mr. Chairman, I have the time—that mitigated for 6 years, spent $9 million on a repair that would have only cost $3 million that finally, after jumping through 6 years of hoops, this repair was due to be done this summer.

Guess what? It was about 6 months, too late for the lives of three Americans and constituents of mine.

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

Mr. HERGER. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, is the gentleman aware of any maintenance activities in his district that were delayed because of mitigation, the implementation of the Endangered Species Act?

Mr. HERGER. I am aware of a number in my district that are delayed, and specifically the one that I have related to not only was delayed but it was delayed from 1990 until the summer, which has not come yet, of 1997, and prior to that time after 6 years the levee broke.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has again expired.

Mr. POMBO. Mr. Chairman, I ask unanimous consent the gentleman be given an additional 2 minutes.

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

Mr. DICKS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

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

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

Mr. FORBES. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I just want to say to the gentleman from California [Mr. HERGER], and I understand his concern and it is legitimate, had the Boehlert language been in effect we would not have had that 6-year delay that he refers to. The fact of the matter is our substitute amendment is designed to take care of those situations. We want to prevent them from happening in the future.

Mr. FORBES. Mr. Chairman, I rise today in strong support of the substitute amendment offered by the chairman of the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure, the gentleman from New York [Mr. BOEHLERT].

Before us we have an amendment that strikes the requisite balance between providing for the timely repairs to our Nation's flood control infrastructure and protecting valuable endangered species such as salmon and steelhead.

If we fail to adopt the Boehlert amendment, we will be left with a bill that threatens thousands of miles of our Nation's most valuable endangered species habitat.

The threat H.R. 478 poses to rivers and streams across America was highlighted for me in a recent letter from one of America's leading sports fishing organizations, Trout Unlimited. I would like to read to my colleagues what our friends from Trout Unlimited are saying:

Enactment of H.R. 478 would undercut trout and salmon protection and recovery efforts nationwide. There are literally thousands of dams and other structures nationwide that have flood control as a purpose. H.R. 478 would give dam managing agencies, such as FERC, the Bureau of Reclamation, and the Army Corps of Engineers carte blanche to conduct or authorize construction, maintenance, repair, and operation of dams and other structures in the name of flood control regardless of the impacts of those actions on listed species. This is a prescription for species extinction and further erosion of once thriving sport and commercial salmon fisheries on both coasts of the Nation.

It is for these reasons that our Nation's premier sports fishing organizations have united in strong opposition to H.R. 478. However, these same fishermen are supporting the Boehlert amendment as a reasoned approach providing balance to a very obvious problem and necessitating that truly needed repairs to our Nation's flood control structures that are not unduly delayed by the Endangered Species Act.

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

Mr. FORBES. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Chairman, I rise also in strong support of the Boehlert amendment which strikes a balance between protecting valuable endangered species and providing for the timely repairs to our Nation's flood control infrastructure.

This year's massive flooding has been a great American tragedy, and it would be irresponsible if this House does not consider how to reduce the likelihood of such tragedies from occurring again in the future. But Congress should not use this as an excuse to undercut the Endangered Species Act which, rhetoric aside, was not responsible for the rash of flooding.

The passage of H.R. 478, unamended, will not guarantee increased safety. Instead, the bill's broad blanket exemptions to the Endangered Species Act would have environmental impact far beyond the stated goal of protecting human life and property.

I believe that the substitute offered by the gentleman from New York [Mr. BOEHLERT] is a reasoned approach to assuring that truly needed repairs to our Nation's flood control structures are not unduly delayed by the Endangered Species Act.

Today we are provided with a stark choice of one of our Nation's most important environmental policies. We can either vote to exempt millions of acres and thousands of miles of rivers from any endangered species protections, or we can vote to provide meaningful relief to those actually facing true flood control emergencies.

Do the right thing. Support the Boehlert substitute.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. FORBES. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, I rise in strong support of the Boehlert amendment.

As my colleagues know, today we are provided with the stark choice of one of our Nation's most important environmental policies. We can either vote to exempt millions of acres and thousands of miles of rivers from any endangered species protection, or we can vote to provide meaningful relief to those actually facing true flood control emergencies.

Let me put it in even more stark terms for my colleagues. They can vote for a measure that is strongly opposed by every major fishing and environmental group in the country, a measure that will most certainly be vetoed by the President, or they can vote for a measure that is supported by fishermen and environmentalists and can be signed into law.

What do Trout Unlimited, the American Canoe Association, the Atlantic Salmon Federation, the Federation of Flyfishers and the International Association of Fish and Wildlife Agencies all have in common? The litany goes on. They all support the Boehlert substitute and strongly oppose H.R. 478.

As noted in a recent letter I received from the International Association of Fish and Wildlife Agencies, "The language in H.R. 478 is a broad overreach which goes way beyond circumstances related to disaster response measures and could significantly affect the recovery of endangered fish stocks, such as Pacific salmon."

We respectfully urge you to oppose any legislative proposal which contains this language. We do support the substitute language to H.R. 478.

Join me in supporting the Boehlert substitute. The only measure that can actually be signed by the President—the only measure that makes environmental sense—the measure that will provide real relief to those affected by flooding.

The CHAIRMAN. The time of the gentleman from New York [Mr. FORBES] has expired.

Mrs. MORELLA. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. FORBES] have 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

Mr. YOUNG of Alaska. I object.

The CHAIRMAN. Objection is heard.

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

Mr. Chairman, I think the Boehlert amendment is extremely ill-considered. I really wonder, as a member of the authorizing committee that passed the Herger-Pombo bill out, you read the language, it simply says, "Consultation and conferencing is not required for any agency action that A, consists of reconstructing, offering and maintaining or repairing Federal or non-Federal flood control project, facility or structure."

Mr. Chairman, this really is a good debate. I am glad we are having it. We have been trying to get to this debate for over 2 years now in the Congress. It really is going to come down, I guess, between a very extreme application of the law, as is presently the case, by the bureaucrats and the Fish and Wildlife Service and NMFS and others, or whether we are going to have a reasoned, balanced approach.

In our State of California alone, there are over 6,000 miles of levees. There is the picture of one, on the far right, that broke. We have 6,000 miles of aging levees that have been built over the decades. Only 2,000 miles of those are even federally constructed levees. The rest are non-Federal.

Since we have had the Endangered Species Act and the very extreme interpretations and additions that have come about over the years, we now find ourselves with tremendous aging, unstable levees in much of our State. We know it has been documented.

The scientists have said that we live in an era of heightened volcanic activity with dramatically increasing weather changes. Just to illustrate this point, we have a hydrologic history in our State that goes back to about the turn of the century, and yet the five largest storms of record have all occurred since 1954 in the State of California.

We may be facing these kinds of floods every year for the next few years. We need to begin now. We need to protect public safety and human life so that we do not have repeats of this kind of a scene. My heavens, how can we be debating this in this fashion when we have seen scenes all over the country of people whose lives have been ruined, who have been up to their necks in water, who have been forced to move out?

They showed a special, I think on Prime Time Live here last week, talking about New Orleans, the district of

the gentleman from Louisiana [Mr. TAUZIN] when they had the floodings in the 1920's. Seven hundred thousand people were rendered homeless. Are we going to countenance policies like we have in the law today that will preclude the adequate maintenance and repair of these levees in order to prevent this from happening?

This is outrageous, Mr. Chairman. We ought to defeat the Boehlert amendment. It is a bad amendment. It is calculated to stymie this very legitimate effort to allow local agencies or the Federal or the State agencies to do what needs to be done to protect people's lives and property.

I am sorry, that comes ahead of a bug or a plant. I think the issues are pretty well defined in that regard.

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

Mr. DOOLITTLE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I think the gentleman from California [Mr. DOOLITTLE] would agree that what happened here is we had a 500-year flood, a catastrophic event, that caused all this damage. It was certainly not the Endangered Species Act. How can my colleague possibly blame it on protection of habitat and species?

Mr. DOOLITTLE. Mr. Chairman, reclaiming my time to answer the question of the gentleman. You can have a 500-year flood every year in a row for 3 or 4 years. That does not mean they happen every 500 years.

We had a 500-year flood. We had a 250-year flood a couple years before that in parts of the State. So, yes, I blame it on the Endangered Species Act. It does not allow flood control agencies to protect and maintain these levees without jumping through all the hoops that the gentlemen from California [Mr. POMBO] and [Mr. HERGER] and others have described.

It is absurd that we have to spend $10 million in mitigation on a project that costs $3 million to construct.

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

Mr. DOOLITTLE. I yield to the gentleman from Washington.

□ 1730

Mr. DICKS. Mr. Chairman, as I remember, there were a lot of people offering amendments to cut out funding for the Corps of Engineers and also money for the Endangered Species Act that could have been utilized for these purposes. I think if the gentleman goes back and looks at the record, he will see that some of those amendments are a part of the reason why he did not get more of a response on these issues.

Mr. DOOLITTLE. Mr. Chairman, let me just say this is reasonable language that allows the maintenance and repair of levees without having to go through this absurd, years-long, multimillion-dollar process to protect people's lives and property. It is an extreme policy under the law now, and we are about to change it. Vote "no" on Boehlert and vote "aye" on the underlying language.

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

Mr. Chairman, I rise in support of the amendment. I think all of us, if cool heads prevail, would have some understanding that, yes, there are problems with the Endangered Species Act; and I think we would all recognize that there are problems with maintenance on various levees. I think we would all recognize that there are costs associated with mitigation.

If we look at the maintenance and we look at what has to be mitigated, it is hard to tell what comes first, the chicken or the egg, but there are serious problems with maintenance and mitigation. I will offer an amendment in a little while to try to deal with those problems.

Mr. Chairman, I stand here today to address the emergency issue at hand, and that is the levees and the levee system that failed, especially in these 48 counties in California, and how do we repair those levees right now. I am supporting the Boehlert amendment because the Boehlert amendment goes beyond present existing law to repair the levees up to 1998. Now, I would be the first one to say that some of those levees might not be ready in 1998 and we are going to have to extend that.

I would also be one of the first people to say that there is a problem with understanding how to maintain a levee so that we do not have to deal with an elderberry bush or a small yellow snake; we can just clear that elderberry bush, fill in that snake hole, fill in that rat hole. I recognize that we have to deal with the situation that we are now presented with, and that is the safety of human beings that rely on the levee system. We have to deal with that.

However, I would go further, Mr. Chairman, and say the weaknesses here today, when we focus on the photograph that the gentleman from California showed us, the breach in the levee and the woman being carried down with the fast-moving water, I would say that the real weakness, if we look at the big picture, is not with the Endangered Species Act. The real big picture here is not with maintenance or mitigation. The real picture here, the weakness, is within State and Federal approaches to flood management. The weakness is with the current labyrinth of dams and levees. The weakness is with land use planning and our attempts to engineer rivers.

In this debate do we need to understand the mechanics of natural processes? Can we protect people behind levees for a 500-year flood that may happen 2 or 3 years in a row, and the answer is no. Do we want to repair the existing levees? You bet we do. Do we want to resolve the problem of maintenance? You bet we do. Do we want to resolve the problem of mitigation? You bet we do. Do we need to find a solution for the mitigation costs? The answer to these questions is yes.

I feel at this point that the gentlemen from California, [Mr. POMBO, Mr. HERGER and Mr. CAMPBELL], my friends, their motivations are right on target to resolve the problem of flood control, particularly with levees. I just happen to think that they go a little bit too far at this particular point.

Do we want people to move off the levees or out of these cities? The gentleman from Louisiana said, do we want people to move out of New Orleans? The answer is no. Do we want people to move out of Sacramento? The answer is no. Do we want people that are behind levees right now to have to move and go someplace else? The answer is no.

However, my question is—and I know that we want to protect those people behind those levees and clear up the problems with maintenance and clear up the problems with mitigation costs. I fear, though, that if we say adopt the present bill in front of us, that there will be a sense of protection that tranquility will prevail, and we will then begin to expand the levee system and we will put more people in harm's way.

For this reason, Mr. Chairman, at this point, I support the amendment of the gentleman from New York [Mr. BOEHLERT]. I will offer an amendment to help resolve the problem of maintenance and mitigation costs. I will yield to the gentleman from California, and then I will yield to the other gentleman from California.

Mr. POMBO. Mr. Chairman, the gentleman, I believe, understands the Boehlert amendment and understands the main bill that the gentleman from California [Mr. HERGER] and I put together. Does the Boehlert amendment allow maintenance of the levee system?

Mr. GILCHREST. Mr. Chairman, reclaiming my time, the Boehlert amendment, in my understanding, does not address the maintenance, the long-term maintenance. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCHREST] has expired.

(On request of Mr. POMBO, and by unanimous consent, Mr. GILCHREST was allowed to proceed for 3 additional minutes.)

Mr. GILCHREST. Mr. Chairman, the Boehlert amendment deals with the existing emergency, which is to repair the levees up to 1998.

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

Mr. GILCHREST. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, if the area was declared a disaster area from

the floods of 1997, they allow us to repair the damages from the floods in disaster areas from 1997?

Mr. GILCHREST. Mr. Chairman, reclaiming my time, I would say two quick things. No. 1, the Boehlert amendment ensures that repairs that were broken take place in the levee system; but No. 2, if the levees are maintained—and this is what I want to do in my study—if the levees are maintained and cut the grass and deal with the issues, we are not going to have an elderberry bush grow up.

So my amendment, which will amend the Boehlert amendment, I think, will deal with the problem of maintenance.

I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman and I appreciate his argument. There is a reason we go through the process of endangered species. There is a reason we go through environmental impact statements.

Mr. Chairman, last year the Congress talked about spending $1 billion for one dam in California, one dam, $1 billion or more. We went through the assessments, we looked at the environmental assessments, we looked at the alternatives. What did we do? We changed the way we operate at Folsom Dam. We strengthened the levees. We did not build the $1 billion dam for the biggest floods in our State, and that system worked perfectly.

That is why we go through these assessments, because good environmental practices and the taxpayers' interest coincide so very often. We could have chosen to build a $1 billion dam, we did not have to. And now for very little money, I think that is the point the gentleman makes, there is a reason for doing this.

Mr. GILCHREST. Mr. Chairman, reclaiming my time, I thank the gentleman from California, I thank both gentlemen from California, and even the other gentleman from California. There are a lot of people from California here.

I think that we all have to recognize that yes, there have been some extremes, and there are some examples. And the gentleman from California [Mr. HERGER] described an example where some maintenance was held up because of the Endangered Species Act, because of the problems with maintenance and because of the problems of mitigation costs.

Those are real issues that actually happened and create layers of bureaucracy that we are trying to swim through, pardon the pun. However, Mr. Chairman, at this point, I think this House would more adequately address the problem if we vote for the Boehlert amendment, which will end in 1998 and in that process ensure that repairs are taking place. In a minute I will offer an amendment to the Boehlert amendment that will deal with the maintenance and the mitigation costs.

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

Mr. GILCHREST. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, the gentleman has said that the Boehlert amendment does not address maintenance. The gentleman's amendment is asking for a GAO study. So neither one deals with the real problem that we have of preventive maintenance.

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

Mr. Chairman, I rise in support of the Boehlert amendment. I know that the Endangered Species Act is not as well-known to the rest of the country as it is to those of us in California who live with it on a regular basis, and I think that perhaps we speak with more emotion than many of the other people who engage in our debate, perhaps with the exception of the gentleman from Louisiana [Mr. TAUZIN], who exceeds us all. But let me say something that I think has been lost in this entire discussion.

The approach that the gentlemen from California, Mr. POMBO and Mr. HERGER, are taking is not at odds with the approach that was taken by the full Committee on Appropriations unanimously and the essence of the substitute that the gentleman from New York, Mr. BOEHLERT, has brought to us on the floor today.

We may have differences of opinion about the Endangered Species Act, and I, for one, would like to bring the authorization out and go through it line by line on this floor and resolve our various points of difference. But no matter how we feel about that, the bill, as reported out by the Committee on Appropriations coming to this floor next week, contains language which makes a difference for the people who are impacted by this flooding in California.

That amendment was based on a simple premise, that emergency repairs should go forward without any ESA requirements for mitigation or prior consultation to impede them. In other words, for the next, what, 17 months through the end of next year, we believe the districts, the State, and the Federal agencies responsible for putting back in place the flood control system that was rendered ineffective by the winter storms can do so without reference to the Endangered Species Act. That is the thrust of the Boehlert substitute.

Now, it may not be enough to satisfy some, and I understand that there is need for some ongoing approach, maybe expedited approaches that would get through the redtape of bureaucracy more quickly, maybe some things that would provide commonsense permits for our local communities to proceed with on important flood control projects.

We need to talk about streamlined process that gets these projects underway in a construction season, which is already limited by salmon runs and other requirements. We also need to discuss incentive-based approaches to get improved compliance with the Endangered Species Act. We need to make a more cooperative and less heavy-handed bureaucratic approach.

That is all to be done in an approach that could, I think, get broad bipartisan support on this floor as it relates to the entire Endangered Species Act; not a single-shot approach to flood control, but one that would affect all of our districts and that would move us further down the road toward, I think, some understanding of how we can live with this law.

But get this: This Boehlert substitute, which is the only language that the President will sign, we got that message clearly today, is all we can accomplish in this short timeframe. The President will veto the Pombo bill, even as amended, because it is a fundamental rewrite of the ESA that we made up here on the floor, people adding amendments and subtracting amendments.

I mean, the bottom line is we have not done our homework, we have not done the job that needs to be done. We are reacting out of emotion, and I understand that. I feel as the gentleman from California [Mr. HERGER] does about the deaths that have occurred in northern California, the devastating loss of property, and the cost to the taxpayers at every level.

But the solution to this problem is not to take the Endangered Species Act out and shoot it, we can fix it; but it is to deal with all of the other environmental laws that we have not even talked about like the NEPA statute that affects consultation as well and, more importantly, to get the resources we need to fix the levees.

We need State and local taxpayers and property owners and the Corps of Engineers to come up with a comprehensive approach to this solution. We need a flood bond act to pass in California. I am hopeful one will in the next calendar year, in the election either on the spring or fall ballot.

We need to work together on that and not make it appear that the Endangered Species Act has caused the floods. It has, I believe, contributed to delays, I believe perhaps has contributed to additional costs, yes. That is an irritant, that can become a serious problem, but it is not the reason we have the floods. We need to focus on what we can do together to bring about the mix of funding sources that will get on top of this, and I would like to fix the Endangered Species Act in the context of a repair to that entire statute and not just because we have had to suffer in California and in other parts of the country this winter.

□ 1745

I think this effort that the gentleman from New York [Mr. BOEHLERT] has made is designed to get both sides together to give us something we can say to the people of California and other parts of the country who have lost property and lives, and I think we can get the system back up and operating.

The CHAIRMAN. The time of the gentleman from California [Mr. FAZIO] has expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. FAZIO of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to commend the gentleman for his remarks. I think he in fact makes maybe the most reasoned presentation so far on the floor. That is that we have all heard from our constituents and we have all heard from our colleagues, problems with implementation, management, and enforcement of the Endangered Species Act. That is a well known fact on the floor of this House.

The fact is that we have watched and we have battled over this thing over the many years. But the gentleman makes a point; if we really want to address this, it has to be done in a reasoned fashion. We have to bang it out. The gentleman from California [Mr. POMBO] started an effort last year and that came to naught. The gentleman from Alaska [Mr. YOUNG] has approached me this year about whether or not there is a chance to get a group of people to sit down and discuss this. The gentleman from New York [Mr. BOEHLERT], the gentleman from New Jersey [Mr. SAXTON], and the gentleman from Maryland [Mr. GILCHREST] have talked to Members in their caucus about this.

Mr. Chairman, the fact of the matter is we are arriving at a point where there is a critical mass of people who believe that we have an obligation to address this in a comprehensive fashion. I think that is the important way to go about it.

But to use this vehicle as a means of now just driving a large hole into it with respect to huge, huge integrated water projects throughout the western United States, through much of the area of flood control projects, I think would be a terrible mistake. We can do the Boehlert-Fazio amendment. That is doable. The President will sign it. We can take care of this immediate problem. Then we can start with the very hard, difficult work, and that is getting a comprehensive review and changes with this act so in fact it can work for the rest of our economy.

Mr. FAZIO of California. Mr. Chairman, reclaiming my time, I want to congratulate the ranking member. I am sure the gentleman from California [Mr. POMBO] and the gentleman from Alaska [Mr. YOUNG] are pleased to hear that kind of commitment, because we all know that kind of work has to be done.

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

Mr. FAZIO of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, one of the realities here, too, is when people are talking about protecting flood control projects, that is one thing. But then there is going to be a higher burden on the farmers, on the miners, on the other industries, because we are going to have to do this protection at some point.

The CHAIRMAN. The time of the gentleman from California [Mr. FAZIO] has again expired.

(By unanimous consent, Mr. FAZIO of California was allowed to proceed for 2 additional minutes.)

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

Mr. FAZIO of California. I yield to the gentleman from New Jersey.

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

Mr. Chairman, I would like to clear up one matter. Earlier in the debate when I was in the well, there was some question about the position of the White House. The gentleman from California just reiterated a position that I thought was valid, and that was that the White House, the President, would not sign the Pombo bill in its current form. I am also aware that calls have been made to the White House in the subsequent couple of hours. Would the gentleman bring us up to date on what he believes the position of the White House is?

Mr. FAZIO of California. Mr. Chairman, I believe the White House remains opposed to the Pombo bill, as amended, and supports the Boehlert alternative, which is the only thing we can accomplish in this short time frame; maybe not from the standpoint of many Members the best, but it is what is doable. It is what we can bring home to our constituents in need. We can then go back and take a more comprehensive approach. The committee can do its work. We will not be supplanting them here on the floor.

I do think that is the most constructive thing. What I really want to get across is this bill, as we know, is not going to pass the Senate. It is not going to even come to the President for a veto. It is a vehicle for debate. It is a vehicle to air a problem. Now, let us not lose sight of the fact that we owe it to our constituents to help them with a short-term crisis. Mr. Chairman, I urge Members to support the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I ask unanimous consent that debate on this amendment be limited to 30 minutes, 15 minutes on each side, equally divided.

The CHAIRMAN. And all amendments thereto?

Is there objection to the request of the gentleman from California?

Mr. GILCHREST. Reserving the right to object, Mr. Chairman, and I do not want to object, but I would like to ensure that my amendment be protected in this time frame.

Mr. POMBO. The request is to the Boehlert amendment and all amendments thereto. I will assure the gentleman that I do not have any objection to his amendment.

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

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. POMBO] will control 15 minutes, and the gentleman from California [Mr. MILLER], the ranking minority member, will, I assume, control the other 15 minutes.

PARLIAMENTARY INQUIRY

Mr. DICKS. Parliamentary inquiry, Mr. Chairman.

Mr. Chairman, is it not the regular order that Members who are standing are recognized for a portion of the 30 minutes?

The CHAIRMAN. The request was to expedite and divide in half the control of the time, so the Chair exercised discretion to carry out that allocation which was clearly in agreement.

Mr. MILLER of California. Mr. Chairman, it is my understanding that it is 15 minutes a side. I ask unanimous consent to yield half my time to the gentleman from New York [Mr. BOEHLERT], half of my 15 minutes.

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

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. BOEHLERT] will control 7½ minutes.

AMENDMENT OFFERED BY MR. GILCHREST TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. GILCHREST. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GILCHREST to the amendment in the nature of a substitute offered by Mr. BOEHLERT:

At the end of the amendment add the following new section:

SEC. . GAO STUDY OF MITIGATION REQUIRED FOR LEVEE MAINTENANCE PROJECTS.

Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a nationwide study of the costs and nature of mitigation required by the United States Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to consultation under section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)), for flood control levee maintenance projects; and

(2) submit to the Congress a report on the findings and conclusions of the study.

Mr. POMBO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GILCHREST. Mr. Chairman, I ask that the amendment to the amendment in the nature of a sustitute be adopted.

The CHAIRMAN. The question on the amendment offered by the gentleman from Maryland [Mr. GILCHREST] to the amendment in the nature of a substitute offered by the gentleman from New York [Mr. BOEHLERT].

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

Mr. POMBO. Mr. Chairman, I yield 4 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman from California for yielding time to me.

Mr. Chairman, I wanted to address the Boehlert amendment. We have heard the gentleman from California [Mr. FAZIO] speak very eloquently to the fact that we need to put off consideration because, after all, hopefully we will be dealing with the Endangered Species Act. But if we think for one minute that the entire act will not evoke more emotion and more concern than this particular bill does, then we are not thinking clearly, again.

Certainly, organizations like Trout Unlimited and the Sierra Club will be lobbying any commonsense reform to the Endangered Species Act. The Boehlert amendment simply codifies into law that which is already being used by rules and regulations, and it is not working. The issue is, when are we going to put humans and human property above the lives of a beatle or a snail or various other species?

These agencies have not been using common sense as they regulate. In Idaho, we have a highway that goes into a little town, Grangeville, that was being washed out because of flooding. Yet, the National Marine and Fisheries Service and the Fish and Wildlife Service would not let us repair that highway. Instead, they allowed a huge amount of siltation and sediment load to occur in those streams and rivers that have been set aside as critical habitat for the salmon because this agency was not willing to make a decision.

In the little town of Julietta the flooding occurred, and the sewer system up there was threatened with the settling ponds, and the Fish and Wildlife Service insisted that the town plant willows and other bushes on the dikes in order to protect the steelhead, and yet the settling ponds were flooding and effluent was going into another river that is critical habitat for the salmon.

Mr. Chairman, the fact is that when agencies are left to their own, they are mixing up their priorities. We are simply, in this body today, trying to reestablish the priorities. Yes; these are not extreme emotions, and these are not extreme solutions that we are looking to. Mr. Chairman, as I look at these pictures, it does evoke emotion. It is of great concern to us. I think we need to do the responsible thing. We need to support the Pombo amendment and we need to defeat the Boehlert amendment.

Mr. Chairman, I rise in support of H.R. 478, the Flood Prevention and Family Protection Act, and in opposition to the Boehlert-Fazio substitute.

There is a great deal of misinformation being spread around here today, I want to clear some of this up.

Fact—under current law, the Endangered Species Act allows necessary repair work to levees and flood control structures only after flooding has begun to destroy human life, property and wildlife habitat, and only after the President declares the flooded area a disaster.

In other words, flood prevention repairs can begin only after there is a devastating flood. That is not prevention, Mr. Chairman, and is yet another example of the inflexible nature of the ESA.

Fact—H.R. 478 does not gut the ESA, as some claim. If H.R. 478 becomes law, the NEPA process will still provide Federal agencies with an opportunity to ensure flood control measures do not harm endangered species.

Fact—this is not a problem limited to California's 1997 winter floods. We have heard and will hear more ESA horror stories throughout the day. But, Mr. Chairman, let me tell you about my home State of Idaho. We, too, were flooded in Idaho this winter. On New Years Day this year, streams became torrents of water, dykes were breached, levees were blown-out all over Idaho. I personally flew over the flooded areas to see firsthand the devastation. Livestock and other property were lost. Fourteen counties in Idaho were declared disaster areas.

In Idaho, a river is eroding a county road near Grangeville—a road that is the sole access to a housing development. Because of the geological structure of the area, this is the only place that a road is possible. The river is cutting away at the bank and the road, pouring sediment into the river. This sediment impacts the endangered salmon.

Yet, the National Marine and Fishery Service [NMFS] is holding up repair until they can determine if the repair will be harmful to the endangered salmon. This is a dangerous situation because an entire community can be cutoff, and at the very least, travel over this road is hazardous. In the short term, repairs may impact the salmon, yes, but in the long term, the community and the salmon would benefit—sediment would no longer be pouring into the stream, and the citizens can safety travel over the road.

Another example from Idaho, a stream bank on the edge of the town of Julietta—population 488—was breached by flooding. The water continues to threaten Julietta's sewer system. But the U.S. Fish and Wildlife Service is requiring Julietta to plant shrubs and willows to mitigate impacts to the steelhead, a species that is proposed but not listed as endangered.

The problem is that the planting on the stream bank isn't even in the town of Julietta, and is out of Julietta's control. Additionally, the steelhead isn't even listed. The levee remains breached, and Julietta remains at risk—even through the river remains high and the snow pack in the mountains is at record levels. All forecasts point to another flood.

What we have in Idaho, then, Mr. Chairman, is sediment pouring into a stream—impacting both humans and fish—and the possibility of sewage effluent entering a river—again impacting fish and humans. Grangeville and Julietta and the fish are impacted by the inflexible nature of the ESA, and are at risk. This has also affected the species the ESA was meant to protect—this is simply unacceptable, especially in these emergency situations.

North Dakota recently experienced flooding—and who knows where it could happen next.

Is this the intent of the Endangered Species Act? Is it to be implemented in such a way that communities are threatened? I say no. We must provide the flexibility to protect our citizenry from flooding and in the end, as in the case of Grangeville, protect the endangered species, the salmon.

H.R. 478 does not gut the ESA. This is a good bill which merely provides the flexibility to allow our citizens to prepare and try to prevent disasters.

The Boehlert-Fazio substitute will not work. in fact, it will make the current situation worse. The substitute subjects the repair or replacement of all flood control projects in disaster areas around the National to requirements established by the U.S. Fish and Wildlife Service for projects located in declared disaster ares in California. That's right, Boehlert-Fazio is limited to only California, and authorizes repairs only through 1998. What about my State of Idaho? What about future threats and disasters?

Passing legislation that gives the FWS dominion over people sets up a very dangerous precedent—and is a real threat to families across America. The FWS has already shown that it puts the interests of wildlife over property rights. With the Boehlert substitute, the FWS would have the legal authority to place the interests of wildlife before the safety of people. The safety of people and wildlife should be treated at the same level.

What's worse, the Boehlert-Fazio substitute provides no coverage for maintenance, either before or after flood disasters. As we in the West know, maintenance of dykes and levees is absolutely crucial to flood protection. The Boehlert-Fazio substitute makes existing law worse.

With that, Mr. Chairman, I urge my colleagues to vote for H.R. 478, and vote against the Boehlert-Fazio substitute.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. I thank the gentleman for yielding time to me, Mr. Chairman.

Mr. Chairman, let us think about it for a minute. We would think that there was never a disaster in America before the Endangered Species Act. That act was adopted when Nixon was President in 1972. We wait until 1997 to get up and say that all the floods in California were a result of the Endangered Species Act? Then what they do is to bring an amendment to the floor which, frankly, the reason we are having such a long debate on is that it was very poorly drafted. It was poorly drafted because it opens a huge hole.

If we look on page 2, and I hope all of us will read these bills, because that is what we are sworn in office to do as lawmakers, it says on line 21 that the consultation and conferencing under the paragraphs in this bill are not required for any agency; not required, not required. This is the big loophole.

Mr. Chairman, before coming to the Congress I served in the California Legislature. I drafted bills that created water districts and irrigation districts. Before that I was on the board of supervisors. I sat on water districts and irrigation districts, and on air boards and transportation boards. The reason we have the consultation process in law is so we can avoid the unforeseen problems that come about when you start tampering with nature.

If we are going to do levees and build dams and operate them, we are going to have downstream effects. Those downstream effects can affect people's livelihood. We do not want to exempt that process, because what happens if we do not have that consultation in the beginning, we are going to end up with someone filing a lawsuit in court, and if there is any way to delay a project, just get it tied up in the courts where nobody wins except the lawyers.

I have all the respect in the world for the people that came and wanted to try to deal with the regulatory issues when it comes to floods, but this bill, the way it was drafted, is the wrong approach.

I rise today in support of the Boehlert amendment. Many of the people who spoke in favor of this bill who gave these causes are California legislators. They never got up after the 1986 flood, where we lost lives, and blamed it on the Endangered Species Act. They never took action before when they were in Congress to amend the act.

Do not make any bones about it, this bill, the way it came to the floor, opens a door far beyond what those who tell us they just want to kind of make the process a little bit expeditious really intend to do.

Every time we make a decision to dig, drill, cut, build, repair, we are going to affect something. I assure the Members that they have to have a process where people talk about that before the effects are known, before the effects of the construction are placed upon those that have a negative effect.

I urge Members to support the Boehlert amendment. It is a reasonable approach. It can get signed into law. If we really want to correct the problem, we want it to become law. That is what the President will sign. I urge an "aye" vote.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Chairman, it pains me to have to rise and speak against the amendment of my dear friend, the gentleman from New York [Mr. BOEHLERT]. Mr. Chairman, it will not help my district in Missouri, and I realize that that sounds a little bit selfish, but the fact is that my job here is to protect the folks back home, and that is what I need to do.

Let me explain by telling the Members about a couple of situations in my district. We have a small town called East Prairie, where the integrity of its levees are greatly threatened. This is a poor town and it is very prone to flooding every year. Because of this, there are a lot of folks who live on welfare in East Prairie because no companies want to come to East Prairie and locate because they keep getting flooded out.

□ 1800

So we have no jobs. We have lots of welfare recipients and we do not have any prospects for getting new jobs until our levees can be fixed and we can get two pumping stations to help keep those levees strong and maintain them.

I need to know what I can tell the folks in East Prairie, MO, who desperately want to find work. Am I going to tell them that they ought to move away because Fish and Wildlife or the EPA thinks that the pallid sturgeon in our region is more important than them?

And then several miles up the river in a place called Commerce, MO, right on the river we have another problem. If we had a flood half as bad as they had in Grand Forks, the Army Corps of Engineers tells us that we would have a huge chocolate tide coming in because our levees cannot hold the water and, it would spread all the way through our district, southern Missouri, all the way to Helena, AR, the home of our colleague, the gentleman from Arkansas [Mr. BERRY] and the President's home State.

Our levee simply cannot manage that influx of water. We stand to lose half a million lives, several interstates, schools, businesses, private property. It is a terrible situation.

Our landowners, for example, we have to wait 2 years to have an environmental impact statement to tell us if we can even get a permit to fix this. That is not right. Our landowners in both these cases have offered five times the mitigation to maintain and repair these levees, but we are told by the EPA and Fish and Wildlife that since this is not natural wildlife they will not accept that, but five times hundreds of thousands of dollars of mitigation and it is unacceptable.

So what do I tell these folks in my district? What do I tell them when their lives are in harm's way on a daily basis? That we have to wait 2 years to even try to fix this problem?

So anyway, that is my problem. That is my concern. I sure think that the Pombo-Herger bill is going to help our folks in southern Missouri a lot more than that of my friend, the gentleman from New York [Mr. BOEHLERT].

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

The CHAIRMAN. The gentleman from Washington [Mr. DICKS] is recognized for 3 minutes.

Mr. DICKS. Mr. Chairman, I thank the gentlemen very much for yielding me the time.

I rise in very strong support of the Boehlert amendment. I think the Boehlert-Fazio amendment is carefully crafted. It gets the job done but it does not create this great big broad exception in the Endangered Species Act.

Let me just read to my colleagues, I think very careful language that addresses why the bill as reported, the Pombo bill, is unacceptable. The bill would permanently exempt the reconstruction, operation, maintenance, and repair of all dams, hydroelectric facilities, levees, canals, as well as a host of other water-related activities, from the safeguards and protections provided in the Endangered Species Act. There are literally thousands of dams and other structures nationwide that have flood control as a purpose.

H.R. 478 is clearly unnecessary. There is no credible evidence suggesting that the ESA has worsened flood damage. In fact the ESA is already flexible enough to allow expedited review for improvements or upgrades to existing structures in impending emergencies.

The ESA also allows exemptions for replacement and repair of public facilities in presidentially declared disaster areas. The Fish and Wildlife Service issued a policy statement clarifying how the agency is implementing these emergency provisions in the 46 California counties that were declared Federal disaster areas this year. Under the policy, flood fighting and levee repairs are automatically exempted from the ESA if they are needed to save lives and property.

By the way, just to read again the statement by the administration, the administration strongly opposes H.R. 478 because it would exempt all flood control projects from consultation and taking requirements of the Endangered Species Act. The administration clearly supports minimizing flood damage

and protecting the residents living in flood-prone areas, but does not believe that H.R. 478 will achieve these purposes. Because of severe economic and environmental impacts that would be caused by H.R. 478, the Secretary of the Interior would recommend that the President veto the bill in its current form.

Mr. Chairman, that is why I think the Boehlert-Fazio substitute, which is carefully crafted, which deals with the emergency situation, which in essence codifies in law what the President has already done in California through his declaration, is the right way to proceed. This will be in conjunction with what we are doing on the supplemental appropriations bill.

I just hope Members really do understand that this amendment is aimed at weakening the Endangered Species Act and I think will produce a very negative consequence to the timber industry, to agriculture and mining who will have restrictions laid on them because of this exemption.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, we are down to the last few minutes of this debate on the Boehlert substitute. I think it is important to point out here that there are some things that we can get done today which will become law and there are some things that we ought not to get done today which frankly cannot become law.

One of the things which cannot be done today is that we cannot make major changes to the Endangered Species Act because if we were to do so, we would have to have the cooperation of the administration, and the administration has clearly stated as late as the last couple of hours that the Pombo-Herger language is unacceptable and, therefore, it cannot become law.

What can happen today is the adoption of this amendment, the Boehlert substitute, which can then become the base bill which can pass this House, which I believe can pass the Senate and which I believe can be signed into law, which will grant the constituents of the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. HERGER] and the folks from North and South Dakota and the other flood stricken areas the relief that they need in order to repair the flood control systems that have been damaged by the floods.

Mr. Chairman, I just want to urge every Member to do what I have concluded is the right thing in order to pass this aid along, not in the form of money but the opportunity to get things done quickly and in a way that nobody seems to object to, particularly the administration whose cooperation we once again need.

I commend the gentleman from New York [Mr. BOEHLERT] for his hard work, as well as the gentleman from California [Mr. POMBO], who has a different approach, but I think that in the interest of moving the process forward and in the interest of getting the relief to the folks who need it the most, that there is only one answer and that answer is to vote "yes" on the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for yielding me the time.

Mr. Chairman, there are two experiences I have had in my life that I would like to point to in setting up my share of this discussion. In 1938 we had a major flood in California. I was 4 years old. I remember it clearly, dropping a ping pong ball outside my back window and it dropped about 12 to 18 inches and hit the water and floated out through the back fence. At that point in time, I understood clearly that nature could have a very big impact upon our lives and that disasters were of great potential that we needed to pay great attention to.

The next event involved the late 1960's, when my colleague from California who is standing over here and I discovered the word environment. And it was a very important development before all of us recognized that mankind was having an impact upon our environment that we needed to pay very careful attention to. As a result of that and the work involving that, I once chaired a committee that developed the toughest air quality management district in the country. I take a back seat to nobody in terms of environmental questions.

But when we find ourselves in a circumstance like that which California is experiencing now, where a major flood control project in southern California would be held up by the wooly star, which is nothing but a cactus that is almost laughable except it gets a little purple flower for about 2 weekends a year; when indeed the kangaroo rat is having a huge impact upon development in the Central Valley where these floods have recently taken place; when the Delhi Sands flower-loving fly is impacting not only the development of a county hospital but the economy and the flood control in the very region I am worried about in the south lands. That would suggest to me that the environmental movement has some way gotten into the hands too often of those people who are on the very fringes of this entire discussion.

It is time to make sense out of the Endangered Species Act. It is time to recognize that these flood control mechanisms in the Central Valley are critical to the health and welfare of our people. And we should not allow extreme voices to dominate this debate.

If we defeat the Boehlert amendment and the Fazio amendment today and we go forward with this bill, we will set up a discussion that will for the first time in many, many a year cause everybody of good faith to say, hey, we have to make sense out of this thing. There is no doubt that my public is concerned about the environment, but they do not want to have idiocy prevail.

To suggest that these gentlemen on my side of the aisle are interested in gutting the Endangered Species Act is less than a service to the process we are about here. Indeed, we have gone to extremes, and it is about time we took sensible voices to the bargaining table between now and the time the President ever sees this bill and make sure that endangered species that are important to all of us truly have their place in this debate, a very valuable place; but also people, a very valuable species, ought to have a place in this debate as well.

Mr. Chairman. I rise today in strong support of the Flood Prevention and Family Protection Act of 1997. This legislation was introduced by my colleagues Congressman WALLY HERGER and Congressman RICHARD POMBO following the January floods in California which devastated the San Joaquin and Sacramento Valleys. This legislation, which enjoys wide bipartisan support, has been drafted in an extremely focused manner to correct a serious deficiency in the Endangered Species Act as it relates to the interplay between wildlife habitat and flood control projects, facilities and structures.

I also want to thank my colleagues TOM CAMPBELL and BILLY TAUZIN for their thoughtful input and positive changes to this important legislation. The voices these members add to the debate help move this discussion in a positive direction. Their recommendations are welcomed by my colleagues and I who have long-standing concerns over the excesses of the Endangered Species Act and its oft-times arbitrary application.

H.R. 478 allows the reconstruction, maintenance, repair and operation of existing flood control projects before a flood event occurs—not after the damage has been done. This is a critical point. Opponents of this legislation believe that we should sit on our hands while a 100-year flood event wipes out people's property, species habitat and existing flood control projects. This makes absolutely no sense. I cannot believe that opponents of this measure think that endangered species like the delhi sands flower loving fly and the kangaroo rat should have the same priority as the protection of human lives and property. That's right, the extreme environmental groups place species protection over the protection of humans. I hope my colleagues listening to this debate don't have the same set of priorities. The fringe environmental community wants you to believe that this measure guts or rips the heart out of the Endangered Species Act. Nothing could be further from the truth. It simply adjusts shortcomings with the ESA.

The County of San Bernardino, which I represent, is responsible for constructing, operating and maintaining hundreds of miles of flood control facilities. These facilities are designed to protect people and property from

flood damage—not provide habitat for endangered species. The Santa Ana River Mainstem Project and the Seven Oaks Dam are located in my congressional district. These projects are responsible for the protection of millions of lives and billions of dollars of property in Riverside and Orange Counties. I certainly don't believe that the millions of people who are protected by these projects feel that we should wait until after a major flood catastrophe to repair these projects.

As a result of the Endangered Species Act and its ever-changing interpretation and the ever-increasing list of threatened and endangered species, the mitigation requirements on many flood control facilities are cost prohibitive. In fact, the permitting process has become so costly and time consuming that critically needed projects are now often delayed and abandoned. At the very least, we need to provide State and local flood control professionals with the ability to repair existing flood control investments before disaster strikes. It is unfortunate that the regulatory burden on the permitting process has become so encumbered that the public, in many instances, no longer receives the same level of flood protection they once enjoyed.

Make no mistake, this legislation can also reduce Federal costs associated with future flood disasters. As chairman of the Appropriations Subcommittee responsible for the annual budget of the Federal Emergency Management Agency, I know full well the impacts that natural disaster supplementals have on other Federal programs. Prior to the 104th Congress, Congress and the Administration simply added the costs of disaster recovery to the deficit. Congress has now taken the responsibility of fully offsetting federal disaster recovery spending from other important federal programs. In fact, the disaster supplemental which will be on the House floor next week uses housing programs as an offset for disaster spending. While I don't believe that we should have to pit housing and other programs against disaster relief, these will continue to be the tough choices we face unless we get a handle on the costs of disasters.

The Herger-Pombo Flood Prevention and Family Protection Act is one such tool we can use to decrease the exorbitant costs of future flood disasters.

Let's give some relief to the past and future flood victims by providing flood control professionals the tools they need to do their job effectively. As Governor Wilson stated in a May 6 letter to Congressmen HERGER and POMBO, "this bill will make it much easier to avoid loss of life and property by expediting preventative maintenance prior to flooding with the expectation that this would reduce the risk to life and property during the flood itself."

I urge my colleagues to put people first. Support H.R. 478 and oppose the Boehlert-Fazio amendment.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are coming to the end of this debate. Let me just suggest that the experience in Congress is not very good when we try to write wholesale exceptions to an individual law without considering the impact elsewhere.

We did this 1½ years ago with logging without laws. Not only did we devastate a lot of the forests in the Pacific Northwest and elsewhere, but we found out we had horrible impacts in terms of landslides this year that killed people because of lack of restrictions on where cuts were made. We also see that we are having an impact on the commercial fisheries and on jobs.

Now we come to it is essentially levees without laws. This Government, the taxpayers, have spent billions and billions of dollars taking the great rivers of this country that ran across thousands of miles, that have filled hundreds of miles of flood plains, and we have forced them into very narrow rivers with very high levees. Should we be surprised when every now and then the rivers jump out of those levees? That is what happened this year.

But there is no indication at all that that happened because of the Endangered Species Act, and yet we are on the floor today talking about blowing a huge hole in the Endangered Species Act because we are angry about the floods. But the demonstration is simply this, we had too much water for the existing design of the levees and the water blew those levees out. It had nothing to do with the Endangered Species Act.

We had river flows that most of us in our lifetime have never seen in the State of California, they had never seen in North Dakota, they had never seen in the Midwest. It had nothing to do with the Endangered Species Act. It had to do with the fact that so much water was coming through that there was no capacity of the levees to hold.

We ought to be very careful before we accept a wholesale retreat on the Endangered Species Act with respect to huge publicly subsidized Federal water projects in the West and elsewhere.

I say that because of this: If you get these exceptions, then the burdens of meeting the requirements of the Endangered Species Act fall on the commercial fishermen, they fall on the logger, they fall on the miner, they fall on the municipalities, because that burden has to be met somewhere else. And if the levee districts can escape their obligation under the Endangered Species Act, we will be looking to the people in the forests, we will be looking to the people in the commercial fishing industry to try to pick up that burden.

I hope that we would vote for the Boehlert-Fazio amendment and reject Pombo.

□ 1815

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I am grateful to the gentleman for yielding me this time.

I want my colleagues to understand that today they have a choice between going home and telling people they did something about levees and levee reconstruction or going home and saying that they made wonderful speeches and brought down the legislation which could have helped those people; that they have assured a veto or a filibuster in the Senate which will kill this legislation.

I want to give my colleagues one example of what this means. In the West, salmon streams now are faced with a situation where salmon are becoming endangered species. What this says is that we are stripping those homeowners and others along the shore of the protection of Federal flood control, but we are also doing something else, we are stripping the salmon, which is one of God's great gifts to the people of the Western United States, of all protection. And we will find the great runs of salmon being a matter of cold hard history with those species now gone from the western rivers.

Mr. Chairman, I urge my colleagues to vote for the amendment of the gentleman from New York and against the legislation.

Mr. BOEHLERT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are coming to the close of a spirited and very serious debate, and I want to commend all those who have participated for the seriousness of purpose.

My substitute addresses the stated objective of H.R. 478 in a manner that does not violate a very important piece of legislation, the Endangered Species Act, and in a manner that is friendly and sensitive to the environment.

We have a choice. Do we want to solve a problem or do we want to beat up on the Endangered Species Act? I do not find the Endangered Species Act, despite the fact that it is so well-intended, to be perfect. It requires some refinement. But that is another debate for another day. This purpose today is to address an emergency situation.

We have been faced with an emergency situation and we have come up with an emergency response, a response that allows the repair work to go forward not just after the fact, as some have been concerned with, but prior to the fact if there is a substantial threat.

Now, the crafters of H.R. 478 will tell my colleagues that their bill is narrowly crafted. Be wary of that. Do not buy anything from that, because their bill would exempt from the Endangered Species Act maintenance, rehabilitation, repair, or replacement of a Federal or a non-Federal flood control project, facility, structure. The list goes on and on. A blanket exemption.

We have heard expressed here in eloquent terms how important the Endangered Species Act is to America. Do we just want to throw it out? The answer is clearly no. But no law is more important than human life, and we want

to protect human life, and that is why we have the exemptions we do in this bill. When human life is threatened, when there are substantial property investments threatened, we do not want a lot of bureaucrats and red tape and a lot of paperwork saying, well, we are sorry. We do not want people to be in harm's way so we provide exemptions for that.

Now, let me tell my colleagues something. People will say, well, the gentleman from New York, [Mr. BOEHLERT] and the gentleman from Michigan, [Mr. DINGELL] and some of the others are against flood control projects. They do not want to build any public works projects to protect the American people. How wrong they are. Because I am chairman of the Subcommittee on Water Resources and Environment that brought to this floor last year a $4 billion, 4-year program for flood control and important activities like that which are so essential to California, not just California but New York, too.

So I suggest to my colleagues, if our desire is to beat up on ESA, go ahead. But that is not what we are here to address. We are here to address an emergency. We are here to legislate.

I have been told by the administration that H.R. 478, even as amended, will not be signed into law by the President of the United States. So we can have all the grand speeches we want, all the press releases we want, but we will not have legislation to deal with real problems affecting real people in a real emergency. My bill will be signed by the President. The administration has said so. So that is very important.

Finally, let me point out that my language, my proposal, was passed unanimously by voice vote in the Committee on Appropriations on a bipartisan basis. But that was not good enough. The committee was upset and they objected to it. That is why we are here. Support an environmentally friendly substitute. Let us do the people's business.

Mr. POMBO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from New York, [Mr. BOEHLERT] is accurate on a few things, and I appreciate that he has come to the floor with his amendment. And if it did what he said it did, I would wholeheartedly support it. I would be the first person down here saying that it was a great piece of legislation and that we all should support it. But it does not do what he says it will do.

It absolutely does not accomplish the goals that we set out. He says it does. His statement says it does. The things that he passed out says that it accomplishes what we want, but it does not.

We do have a choice today, my colleagues. We have a very definite choice. What the amendment of the gentleman from New York would allow is that this break in the levee, it would allow us to fix that. It would not waive mitigation. It would not waive the Endangered Species Act. It would defer the Endangered Species Act until it was repaired.

Well, what is the difference between that and current law? Nothing. The policy that was sent out by the U.S. Fish and Wildlife Service on February 19 said exactly what the gentleman wants to do. He says the administration will sign it. Well, of course they will sign it, they issued it. Of course they will. It does not take care of the problem that we have, and that is to prevent this from happening.

I would like to show my colleagues, if I may, something that is very real. This is a picture of a levee bank. This is the picture of a levee bank right now. We can see the condition that it is in. They were prevented from maintaining that bank, clearing the brush out so that it could handle the 500-year flood, so that they could handle the amount of water that went through there.

They wanted to do it. They were told they could not until they went through a lengthy bureaucratic red tape mess.

But take a look at that picture a little closer. As they got a little closer in the boat, we begin to see just how bad this is. And we go a little bit closer and we can see the hole, the hole through the levee. We did not see it in the first picture because it is covered with brush, but we can see it if we get up 2 feet away. I know my colleagues cannot see this, but there is a man standing inside that hole.

That is the other side of the river where they had a boil coming up with water pouring out. That is the reality of what we are trying to do.

The amendment of the gentleman does absolutely nothing about this. The gentleman's amendment does nothing on preventive maintenance. It does not allow us to maintain that levee system.

What it does do is it says if the President declares it a disaster area in 1997, from this year's flood, then we can fix it. We can go back and fix that break. It does nothing to take care of an ongoing maintenance problem so that we do not have to come back and do this again year after year after year. It falls short of the goal. It accomplishes nothing.

Yes, we do have a choice. We can go home and tell our constituents that we actually did something about this problem or we can do what Congress has done for the past 40 years: Put up something that looks good, feels good and does absolutely nothing, because that is what the gentleman is giving us, nothing.

The gentleman keeps talking about what is in our particular bill. It consists of maintenance, rehabilitation, repair or replacement of a Federal or non-Federal flood facility if there is a threat to human life or serious property damage. We can maintain our levees if there is a threat to human life. We can rehabilitate our levees if there is a threat to human life. We can repair if there is a threat to human life and a substantial risk of the loss of private property. That is what we are asking for.

All of this stuff about gutting the act and everything else is just talk. We are asking for the chance to maintain our levees. What the gentleman is telling us is he is telling us that the airplane crew can provide maintenance on that aircraft as soon as it crashes and the people are dead, but until that point we are sorry.

Vote no on the Boehlert amendment and yes on the base bill.

Mr. PORTER. Mr. Chairman, I rise in strong support of the Boehlert amendment. We are all aware of the substantial needs of the victims of the recent floods and we should do all we can to help them. As currently provided in the supplemental emergency bill, all repair of flood control projects in federally declared disaster areas are exempt from ESA regulations. This language was approved by the Full Appropriations Subcommittee. However, since there were concerns over the ESA causing a delay in the construction of flood control projects—although there is no evidence that the ESA is directly accountable to this claim—Mr. BOEHLERT has offered this amendment to be sure that repairs to flood control projects will not be delayed anywhere where there is an imminent threat to human lives and property. This will help current flood victims and dispel any concerns over future maintenance and repairs.

H.R. 478 is not a bill to help flood victims. It is a poor attempt to weaken the Endangered Species act under the guise of emergency provisions. There are acknowledged problems with the ESA that should be addressed in a complete reauthorization bill, but these should not be addressed piecemeal during times of crisis.

Support the Boehlert amendment to alleviate immediate problems and leave other concerns for complete ESA reauthorization.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute, as amended, offered by the gentleman from New York [Mr. Boehlert].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 196, not voting 10, as follows:

[Roll No. 108]

AYES—227

Abercrombie	Allen	Barcia
Ackerman	Baldacci	Barrett (WI)

Bass
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntyre
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Petri
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Rivers
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Saxton
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Wise
Wolf
Woolsey
Wynn
Yates

NOES—196

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Everett
Ewing
Fowler
Gallegly
Ganske
Gekas
Gibbons
Goode
Goodlatte
Goodling
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Knollenberg
Kolbe
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Radanovich
Regula
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Sandlin
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Wamp
Watkins
Watts (OK)
Weldon (FL)
Whitfield
Wicker
Young (AK)
Young (FL)

NOT VOTING—10

Andrews
Barton
Becerra
Clay
Delahunt
Filner
Foley
McKinney
Reyes
Schiff

□ 1850

The Clerk announced the following pair:

On this vote:

Mr. Filner for, with Mr. Foley against.

Messrs. KLINK, NEUMANN, WELLER, and SMITH of Michigan changed their vote from "no" to "aye."

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

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DELAHUNT. Mr. Speaker, I was unavoidably detained and missed rollcall No. 108. Had I been present, I would have voted "yes."

Mr. YOUNG of Alaska. 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. BONILLA] having assumed the chair, Mr. HASTINGS of Washington, 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. 478) to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that Act in building, operating, maintaining, or repairing flood control projects, facilities, or structures, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. CUNNINGHAM. Mr. Speaker, on Rollcall 90 I was recorded as in favor of the Roemer amendment to H.R. 1275. This was an error. As a supporter of the Space Station, I ask that the RECORD show my intentions to vote "nay" on the Roemer amendment.

ANNOUNCEMENT OF SCHEDULE FOR THE REMAINDER OF LEGISLATIVE DAY

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

Mr. SOLOMON. Mr. Speaker, I have an announcement to make.

The bill that was just on the floor has been pulled, and we are about to take up a rule on the Juvenile Crime Control Act. There will be about a 45-minute vote on it, and then that will be the last vote of the night. In the meantime those that are on the floor now, they are welcome to leave or take seats so that we can take up this last matter before the House today.

JUVENILE CRIME CONTROL ACT OF 1997

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 143 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 143

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. 3) to combat violent youth crime and increase accountability for juvenile criminal offenses. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on 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. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be considered

only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. 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. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield 30 minutes time to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for debate purposes only.

Mr. Speaker, today in this Nation we are faced with a situation where the State and local juvenile justice systems are failing to hold young offenders accountable for their criminal activity.

This rule is designed to give the House a fair and efficient procedure for considering legislation to try to attack the problem of juvenile crime. This rule does provide 1 hour of general debate on the Juvenile Crime Control Act.

In order to allow consideration of the amendment of the Committee on the Judiciary in the nature of a substitute, the rule waives the prohibition against appropriating on a legislative bill. There is one minor technical provision which does allow unexpended amounts which are repaid into a fund to be used for future payments without going through the appropriation process. This is what requires the waiver.

The rule provides that eight specified amendments may be offered on the House floor. Of these eight amendments, six are offered by the Democrats. This procedure is more than fair to the minority. If Republicans had been treated so well when we were in the minority, we would have thought we had died and gone to heaven, Mr. Speaker.

□ 1930

In order to expedite the voting process, the rule provides a vote-stacking authority to the Chairman of the Committee of the Whole.

Finally, the rule guarantees the minority one last chance to offer its best alternative and a motion to recommit which may certainly contain instructions.

Mr. Speaker, we are going to have to get a little more order, because we are coming to a very important part of the debate on this very important issue.

Mr. Speaker, juvenile criminals are a threat to the lawmaking, taxpaying citizens of this Nation to an extent that they have never been before. In order to demonstrate the extent of the problem we are dealing with, let me just provide my colleagues with some very startling facts, and these are really startling.

For example, only 10 percent of violent juvenile offenders, now that is violent juvenile offenders, those that commit things like murder and rape and robbery and assault, 10 percent of them receive any sort of prison confinement.

Let me repeat that one more time. Only 10 percent of violent juvenile offenders that commit murder and rape and robbery and assault receive any kind of jail time at all.

Many juveniles receive no punishment at all. Almost 40 percent of violent juvenile offenders who come into contact with the justice system have their cases dismissed, 40 percent of them with these very serious crimes.

In many cases, by the time the courts finally lock up an older teenager on a violent crime charge, that offender has a long list of violations with arrests starting way back in the early years. According to the Justice Department numbers, 43 percent of juveniles in State institutions had more than 5 prior arrests and 20 percent had been arrested more than 10 times. Approximately 80 percent of those offenders had previously been on probation.

When encounters with the juvenile justice system teach juvenile offenders that they are not accountable for their wrongdoing, I say to my colleagues, the system has to be broken.

In America today no population poses a greater threat to public safety than the juvenile criminals who are back out on the street before they even serve any jail time. Teenagers account for the largest portion of all violent crime in America. Older teenagers, ages 17 and 19, are the most violent of all age groups. More murder and robbery is committed by 18-year-old males than any other group, and more than one-third of all murders are committed by offenders under the age of 21.

The number of juveniles arrested for weapons offenses has more than doubled in the last 10 years. Between 1965 and 1992 the number of 12-year-olds arrested for violent crimes rose 211 percent, the number of 13 and 14-year-olds rose 301 percent, and the number of 15-year-olds rose 297 percent.

I say to my colleagues, something is wrong; this system is broken. What should give us the greatest concern of all is that this dramatic increase in youth crime has occurred in the midst of declining youth population in this country. In other words, while youth population is declining, juvenile crime is escalating at an alarming rate.

While it is true that the Federal Government does not have jurisdiction over the great majority of juvenile crime, Federal law does provide an important model for the States. The Federal Government also can provide assistance to States and localities in their efforts to combat juvenile crime.

The legislation made in order by this rule, the Juvenile Crime Control Act, is designed to provide the necessary leadership and assistance, and I would ask for a "yes" vote on this rule and on the legislation that it makes in order.

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

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my colleague and my dear friend, for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong opposition to this rule. Juvenile crime is a very serious issue for which a lot of people have solutions, and unfortunately this closed rule will allow very few of those good ideas to come to this floor.

Mr. Speaker, in the last 10 years the juvenile crime rate has increased 28 percent. Juvenile crime has become a very serious problem, and we do not have to look far to find it. Within the last year, 7 youngsters have been murdered in a rash of brutal gang violence in the Benning Road area of Washington, DC. Mr. Speaker, Benning Road is not Timbuktu; Benning Road is 10 minutes from this very building.

Nationwide it is not much different, either. Everyday 5,711 juveniles are arrested in the United States. A young man in Los Angeles was recently arrested for vandalism. He fancied himself as a graffiti artist and was charged $99,000 in restitution. He said, "That's what I like to do, and I'm going to do it no matter what."

Mr. Speaker, these days more and more people care less and less about the consequences of their actions, whether it is gang killings, robberies, violent crimes, or graffiti, and we need to do something about it.

Mr. Speaker, we must do everything we possibly can to make sure that our children do not turn to crime, but I do not believe that this bill does what it should. I do not believe this bill is anywhere near perfect, and I do not believe Members who want to change parts of this bill should be prevented from doing so.

Sixteen germane Democratic amendments were offered and only 5 accepted. The Republican bill we are considering today makes a few good steps but, Mr. Speaker, it stops at the jailhouse door. This bill locks kids up and throws away the key. If a child is 13 or older, Mr. Speaker, if a child is 13 or older, he or she can end up in prison not with other juveniles but with adults.

Mr. Speaker, this is the most horrible idea that I have heard in a long while. Young people should be held responsible for their actions, but we can help them change before it is too late, because for many juveniles it is really not too late. Ninety-four percent of all juvenile arrests are for nonviolent offenses. These children can be changed before they turn to worse offenses.

However, for many of the inmates in the adult jails, the time for change is long gone. These people in the best cases will teach the young people new tricks, and in worst cases they will prey upon them, and in some particularly tragic cases they will kill them.

This is no way to turn a young person's life around. In fact, statistics show that if we try a juvenile as an adult, the crime rate will escalate.

Furthermore, this bill also does absolutely nothing to stem the high number of juvenile crimes and accidents involving handguns. It does not take the very simple and the very effective step of requiring guns to have child safety locks so that if a child picks up the parent's gun, they cannot hurt themselves or anyone else.

We on the Democratic side offered an amendment to require gun manufacturers to have safety locks. It was defeated on a party line vote.

Mr. Speaker, I believe we owe our children to steer them in the right direction before they get in trouble. I do not believe that kids are born bad. I believe they are made bad by absent parents, by abusive environments, and by drug pushers. We need to give these kids a chance to be good. We need to give local police the ability to stop the sale of illegal guns and drugs to these children. We need to intervene early, at the first signs of trouble, and we need to support community initiatives for after-school activities and mentoring programs.

Mr. Speaker, these programs work. They provide positive role models and the children respond. They provide positive incentives and the children respond, and they provide a chance, and Mr. Speaker, the children respond.

I know it may not sound tough; I know it is becoming fashionable to punish, punish, and punish, but I, for one, would much rather see a young person playing basketball at midnight than scared for his life in some dangerous adult prison.

Mr. Speaker, juvenile crime is not hopeless and neither are these children. In my home city of Boston, we have just seen how successful prevention efforts can be. Three years ago our juvenile firearm homicide rate was 16 percent. Last year, the Boston police department lowered our juvenile firearm homicide rate to zero. That means that not one young person was killed last year in a city of about 600,000 people. That is progress.

The city of Boston uses strong community policing programs and programs like Operation Cease Fire, which uses shared intelligence to suppress violent flare-ups quickly. However, even in Boston we have a long way to go. Juvenile murders may be down, but juvenile drug use is up.

We should be giving youngsters something positive to do after school, and putting child safety locks on guns would go a long way to reducing violent crimes. Unfortunately, this will not happen under this bill, but it should. Mr. Speaker, whether it is the housing projects in Boston, Detroit, Southeast Washington, we owe to our children to help them back on the right path before they grow up. We need to enforce the law, intervene when children first start acting up and prevent young people from turning to crime in the first place.

Juvenile justice should be rehabilitative, not punitive. So I urge my colleagues to defeat this rule, and if it is not defeated, to join the International Union of Police Associations and the International Brotherhood of Police Officers and support the Democratic Juvenile Control and Prevention Act.

Mr. Speaker, let us not give up on our children before it is too late.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Sanibel, FL [Mr. GOSS].

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank my friend from New York, the distinguished chairman of the Committee on Rules, [Mr. SOLOMON] for this time. I rise today in very strong support of this rule. It will allow fair consideration of the Juvenile Crime Control Act of 1997.

We have been able to accommodate the minority, allowing votes on five Democratic amendments, including a full substitute. In addition, of course, the House will consider one Republican amendment, and of course the minority has the option to offer a motion to recommit. I have every confidence that we are going to have a full debate and the minority has many avenues to speak.

This bill has had extensive review, with forums being held throughout the country in order to ensure that the measures it takes will effectively deal with what is one of the most difficult and troubling aspects in our fight against crime today, and that is the aspect of our Nation's young people.

I know, talking to colleagues on the floor and in the cloakrooms and around town, that Members are coming to grips with this issue. I recently met with the Juvenile Justice Advisory Board in my own district in southwest Florida to discuss some of the problems we are having. Florida is a pretty progressive State. We do have the equivalent of gun lock laws and things like that, good safety issues, but we still have an awful lot of youth crime.

In an honest discussion with both teens and adults on the Juvenile Justice Advisory Board, I heard firsthand about a system that is failing both troubled children and our society at large. Our juvenile justice system fails to respect teens by ignoring or glossing over their misdeeds, and this in turn breeds a lack of respect for laws and civil society among our teens as well.

Respect is still part of our vocabulary in this country. We need to remember that.

□ 1915

We need innovative approaches tailored to local needs. I hope this bill, by setting a strong example, will spur this kind of change.

At the national level, according to the Department of Justice, 17- and 18-year-olds are the most violent of all age groups. Let me say that again. The most violent of all age groups are 17-year-olds and 18-year-olds. Younger criminals are getting increasingly violent.

It is long past due that we make juvenile offenders understand there are real consequences for criminal behavior. Right now, as Chairman SOLOMON has said not once but twice, and I will say again, only 1 in 10 violent juvenile offenders receives any confinement. If Members do not learn or hear anything else in this debate, remember that statistic. Our youngest career criminals are getting away with the most heinous crimes over and over again, and it is not just gang warfare. Wake up.

I am pleased that H.R. 3 will address this by allowing and encouraging tough penalties, rather than perpetuating the slap-on-the-wrist approach.

I urge my colleagues to support this rule. It will get the debate done, and it will get it done fairly. I urge support for this bill. It will do something America will be proud of and needs desperately.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I strongly urge a no vote on this rule. Every day 1 million children go home in this country to households with loaded guns. Fifty-five percent of the guns in this country are loaded, kept in homes. It results in the death of approximately 16 children a

day, and for every child who is killed, there are approximately 5 who are seriously wounded.

If this gun lock proposal would come to the floor, an element that both sides of the gun control issue agree upon, which 80 percent of the American public support, if the Committee on Rules in their wisdom would allow us to bring this before the House, it would overwhelmingly pass, and next year at this time there would be dozens of children alive, hundreds who would not be wounded, including the accidental deaths and use in violent crime.

I strongly urge a no vote on the rule. Send this back, and allow us to give something that all Americans can agree on.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Middleburg, NY, [Mr. BEN GILMAN], one of the most effective Members of our body and chairman of our Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

I am pleased to rise in strong support of the rule, H.R. 3, the Juvenile Crime Control Act, legislation which helps address a multitude of problems facing our Nation's juvenile court system. We have witnessed a doubling in drug use among teenagers every year since 1993. At the same time there has been a steady decrease in the numbers of young people who view the dangers of drug use as any serious, legitimate problem.

That softening of attitude toward drugs and the increased abuse of substances are major factors in the subsequent rise in the crime rate of those under the age of 18. In fact, just last Sunday, on ABC's "Meet the Press," FBI Director Louis Freeh stated that the central problem that fuels violence, particularly juvenile violence, is drug use, drug selling, drug dealing, and drug trafficking.

For the past several years law enforcement agencies have attempted to meet the challenge posed by the rise in juvenile crime, and especially in violent crime. Regrettably, our police and prosecutors are hampered by a system which restricts information sharing and discourages serious punishment. This legislation moves to correct those shortfalls.

There are those who would say this bill focuses too much on punishment and not enough on prevention. I have long been a believer in prevention programs as a method for deterring youth crime. However, I do believe that once an individual has committed a violent felony, it is often too late for prevention.

Mr. Speaker, prevention has its place. Yet, I submit that it has no place with those who have decided to forgo alternate routes but instead focus on a life of violent crime. Those criminals should face punishment and accountability for their actions, not excuses offered by their apologists, who are more interested in advancing some social theory than protecting the law-abiding community.

Accordingly, I ask our colleagues to join in supporting this legislation which moves to address the growing problem of violent youth crime.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I rise in strong opposition to this rule. Mr. Speaker, last week we had an open rule on patents. That is an important issue. Today we had an open rule on endangered species and flooding. My district has flooded three winters in a row. That is an important issue. But neither one of these issues rises to the importance of juvenile delinquency and the threat it poses for our country.

Mr. Speaker, I think that to have 200 minutes to discuss the issues of juvenile delinquency and what as a country we can do about them is not appropriate.

The underlying bill before us takes the $1.5 billion currently slated to flow into our States and communities from the Violent Crime trust fund and puts it all into a scheme of mandatory trial of teenagers as adults. The interesting thing is that from our analysis, arguably only 12 States are going to even be allowed to apply for the funding because the others do not have the scheme required by the act.

Mr. Speaker, I do not think $1.5 billion for 12 States—and not one cent for prevention—is what this country needs to address juvenile delinquency. There are certainly young people who need to be tried as adults. There are young people who have done horrible things. But we know that doing nothing but punishment will not solve our problem.

My friend Mark Klaas, whose wonderful daughter was murdered, said something along these lines: "To say that we are curing crime with prisons is kind of like saying we are going to cure disease by building cemeteries." It is too late to deal with the problem only after the fact. We need to lend our efforts to preventing crime as well.

We also need to have all of the energies and all of the thoughts of every Member of this body, not just one party line vote. We need to have rigorous debate, not 200 minutes. I would urge a no vote on the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today in opposition to the Republican rule and the McCollum bill. There is no question that we have to get tough on juvenile crime. Everyone in today's Chamber agrees on that issue. The debate is, how are we going to do that, and how serious are we going to be about stopping juvenile crime.

The rule that we have before us prevents the true debate from ever taking place, the true debate that must take place on how to get juvenile justice.

With this closed rule, the Republicans prove that they do not want to hear the truth about this issue. They do not want to hear the facts. Here are the facts. The facts show that kids sentenced to adult facilities have higher recidivism rates than kids punished in the juvenile system. Listen to that. What the Republicans want to do is seek a solution that worsens the problem and does not improve the situation.

Fact two: Facts show that kids face shorter, I repeat, shorter and easier sentences in the adult system than they would under the juvenile court judges. It makes perfect sense. You have a teenager in front of you versus a hardened criminal 30 years, 40 years old. If you are the judge and you have overcrowding, who are you going to sentence?

The fact of the matter is and the statistics, let me repeat, the statistics prove this, that the kids that are violent criminals get less time, which I do not think is what the gentleman wants to do, but which he ends up advocating for in supporting the Republican bill.

Finally, Mr. Speaker, I think we need to get beyond the myths of this and we need to get to the facts. That is what we are not going to get to under this Republican closed rule because it will not give us the adequate time to debate this issue.

Finally, Mr. Speaker, let me say how disturbed I am that we are not even going to include a child lock safety device with the purchase of firearms. It is, to me, shameful in this country, when we have 16 kids getting killed every day, that the Republican bill has no provision for a child safety lock to be sold with guns. That is another reason to vote against this rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to my good friend, the gentleman from Rhode Island [Mr. KENNEDY] that if he examines the rule, that almost all of the time is allocated to the Democratic Party. All of the amendments that were made in order were mostly Democrat. I think there was one Republican. We cannot be any more fair than that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BILL MCCOLLUM], one of the most respected Members of this body when it comes to these kinds of issues. He is a member of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I just want to address under this rule for 1 minute what the purpose of this legislation is all about today, because there are some misperceptions about it.

The reason why this legislation is out here is because the juvenile justice

system of the Nation is broken. This is primarily a State and local matter in the sense that most juveniles are tried in State and local courts. There are only about 300 a year that are tried in Federal court. Usually those are for peculiar reasons of where the crimes are committed, Indian reservations, et cetera.

The problem we face is that roughly one-fifth of all violent crime in this country today is committed by those who are under the age of 18. That is 1 out of every 5 murders, rapes, armed robberies, assaults, et cetera.

This is a shocking number in and of itself, but when we consider the fact that the majority, the highest number or percentage of any group that commits murder in this country are 18-year-olds, the largest number of any age group that commits rapes are 17-year-olds, that 64 percent of all violent juvenile crime is committed by those under the age of 15, and then we see that in the juvenile justice system, of those who are found and adjudicated of having been guilty of a serious violent crime, only about 10 percent are ever incarcerated in any kind of an institution, juvenile detention facility or otherwise. It is remarkable. The average length of stay for those that are is less than 1 year. I think that is a serious problem.

Even more serious is the fact that when we look at the juvenile justice system for the early delinquencies, where we really ought to be addressing this problem for vandalizing a home or a store, running over a parking meter, doing graffiti on the wall of a warehouse, usually law officers do not even take these kids before juvenile courts like they used to. There are no consequences these kids see.

Juvenile judges, when they do get hold of a youngster for one of these kinds of misdemeanor crimes, usually it is 10 or 12 times before the juvenile judge on average before there is any kind of a sanction. That means community service or restitution or doing whatever we might think of as a relatively mild sanction.

So is it any wonder in a system like this that when somebody gets to be 16 years old, has a long list of doing these offenses, that when they get a gun in their hands they do not hesitate to pull the trigger because they do not think there are going to be any consequences to doing it?

This bill is about repairing the juvenile justice system and putting consequences back in there. It does in it in two ways. One, it provides for a model Federal system for those limited number of juveniles who come into contact with the Federal system. Two, it provides $1.5 billion over 3 years, $550 million a year in grants, incentive grants to the States and local communities to spend as they see fit, generally, on fighting juvenile crime.

It provides just simply four basic qualifiers to get this money, because we want the States to take action and change the way they are behaving with respect to juvenile justice.

It requires that they have a sanction of some sort for the very first delinquent act of a juvenile delinquent, and graduated sanctions for every delinquent act that is more serious than the first one thereafter.

It would require that prosecutors at the State level be given the discretion to prosecute, it does not require they do so, those of 15 years of age or older who commit serious violent crimes, and we are talking about murder, robbery, rape, that sort of thing.

It would require that for those who have committed at least one lesser offense, for the second one, and they commit a felony, the records be kept on them. Third, it requires parents to have some accountability for not the juvenile acts, but for whatever the juvenile judge designates them to.

□ 1930

This bill does not contain prevention provisions in the sense that traditionally we think of them before we come in contact with the juvenile justice system, because we have two other bills where we deal with that. One will be out here in about a month on the Office of Juvenile Justice Delinquent Prevention from the Committee on Education and the Workforce. That deals with $150 million in prevention grant programs. It is a traditional area we need to work on, and we all are interested in that.

It also is true that we are going to have an effort to reauthorize or authorize and have appropriated about $500 million again this year for the general crime prevention block grant program that we instituted last year to go to the cities and the counties to fight crime as they see fit which, of course, includes fighting juvenile crime.

So there are going to be a lot of prevention programs funded out here on other bills before one comes in contact with the juvenile justice system.

This bill tonight is designed to repair a broken juvenile justice system. That is the single most important prevention thing right now that I can think of that we can do, even though there are other matters that need to be dealt with when it comes to juvenile crime. That is what this bill is about, not about anything else. It is very narrowly focused, designed to repair the Nation's broken juvenile justice system that is not working today, to get more funds, more probation officers, more judges, more detention facilities, and to get sanctions started for the early juvenile delinquent acts.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MCCARTHY].

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in opposition to the rule.

The rule to H.R. 3, the Juvenile Crime Control Act of 1997, does not allow Members to engage in a full and fair debate about reducing juvenile crime and making our schools safe. The closed rule denies Congress the opportunity to discuss child safety lock legislation. Child safety locks can help make our schools and our streets safer for our children. The loaded and unlocked guns are being taken from our homes continuously and used to commit juvenile crimes in our schools. Failure to allow this debate on safety locks is expensive for the American people. We in the health care system know that it costs us almost $3.5 billion, but, more than that, we are losing our children.

According to National Safe Kids Campaign Chairman C. Everett Koop, locks and load indicators could prevent more than 30 percent of unintentional firearm fatalities.

Child safety locks are not expensive. Child safety locks will reduce the cost to the American taxpayers associated with juvenile crime.

This is not the same old debate about gun control. This is about reducing violence and its associated costs.

The amendment we would like to debate would simply require federally licensed firearms dealers to sell child safety locks with firearms. Nobody's guns are going to be taken away. There will be no further Federal requirements for purchase.

It is a simple safety lock. We have bills that make it impossible for children to get into an aspirin bottle. Do my colleagues not think we should do the same thing with a gun?

Therefore, I urge my colleagues to oppose this rule. Let us try and save some kids these days.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER], a fighter for gun control.

Mr. SCHUMER. Mr. Speaker, I thank our ranking member of the Committee on Rules for his generous cession of time.

Whatever we think of the bill that is before us, and there are a lot of opinions, the rule proves one thing: The Republican leadership is scared of the NRA. We already know the Republican Party opposes reasonable measures against gun violence, but now they are saying we cannot even talk about it.

The Republicans want to make guns a four-letter word on the House floor, no discussion allowed. Their whole legislative strategy is built around a single objective of preventing the House from even voting on gun safety measures. When we are talking about youth violence, Mr. Speaker, there is nothing more relevant than guns.

The reason juvenile crime is so much more violent today than ever before is because youth gangs are so well armed. Back in the 1960's, there was plenty of

anxiety and plenty of gangs and plenty of young men on the streets angry, but all they had was their fists and people did not come home in coffins and in body bags. Now guns in many of our cities are everywhere. We are refusing to even debate that issue.

Every amendment we have offered to this bill that would deal with the underground gun market, a simple trigger lock provision that my colleague, the gentlewoman from New York, talked about. Or stiff mandatory sentences on kingpin gun traffickers, the NRA has always told us punish the criminal. These gun traffickers are among our worst criminals, and my colleagues would not even allow us to debate it in the bill. Every amendment has been ruled not germane. Mr. Speaker, this is a gag rule on preventing gun violence. The whole bill has been set up so that gun amendments can be kept off on technical grounds.

Members know we are right about guns, but we are so afraid of the gun lobby we will not even put the issue to a vote. That is the true, behind-the-scenes story of this bill, that the NRA is writing the script.

The gentleman from Florida, the chairman of the Crime Subcommittee, has been working for months on this legislation. He has been very open to input from the minority, and for that I thank him. In fact, the gentleman from Florida [Mr. McCOLLUM] brought the Committee on Rules a manager's amendment that would have added to this bill a whole series of provisions proposed by myself, the gentlewoman from New York [Mrs. McCARTHY] and the administration on guns. But the Republican leadership is keeping that manager's amendment out of the bill, an amendment by the majority's own subcommittee chairman.

There is one and only one reason for this, so that the minute anyone says the word gun violence, gun control, the Republicans can jump up and say, out of order. That is a shabby way to legislate. I urge Members to vote against the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

As I look at this legislation, I just wonder, because there have been mentions of some gun lock safety equipment. This bill does not deal with gun lock safety. That legislation perhaps could come again at some future time.

I think what we really do need to do is to talk about the relationship with the White House. Let us call attention first, I would like to call attention to the fact that we Republicans have been in office here for about 2 years and 2 months or so, and I wonder where all this legislation was prior.

Mr. Speaker, I yield to the gentleman from Florida [Mr. McCOLLUM], chairman of the subcommittee, to perhaps answer that question of what happened to the manager's amendment and the relationship with the White House.

Mr. McCOLLUM. Mr. Speaker, I would like to make a comment. I think that there is an explanation in order. I had offered a manager's amendment yesterday including a number of things before the Committee on Rules that are in the President's bill that are perfectly acceptable and I think ultimately should be passed into law, including enhanced penalties for those who are trafficking in guns with juveniles or juveniles who commit violent crime with a gun and so on. But the truth of the matter is that we were in negotiations with the administration, the leadership, my leadership, all through the day yesterday and even today attempting to come to some accommodation around the edges with respect to these matters, and they were apparently unsuccessful.

I was not involved in all of those, but I know that they were going on at the highest level. I think those negotiations will continue and that ultimately we will have a lot of these provisions that we can pass out here on the floor. But they are not part of this bill. I would like to have been able to put them in there. It would be nice to pass it all at one time. But we will have other opportunities and other days to do this. Today is not the only day.

What we are focusing on today and tomorrow is repairing a broken juvenile justice system. That is the highest priority. We should not diminish its importance. I think my colleagues on both sides of the aisle should recognize that fact, argue if they want about what maybe else we should do in addition to this, understand there is nothing more important to fighting violent juvenile crime or juvenile crime at all than repairing the Nation's collapsing juvenile justice system and putting what is necessary in there to get sanctions back into the system for those early delinquents acts so that we can get consequences and that kids understand there will are consequences for their juvenile acts. I think that is very, very important.

Mr. MOAKLEY. Mr. Speaker, I yield 15 seconds to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, would the gentleman from New York, my colleague, chairman of the Committee on Rules, answer a question?

The gentleman said maybe some other time we can bring the trigger-lock legislation to the floor. Will the gentleman give us a commitment that we will bring that legislation to the floor at some point before this legislative year is out?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the gentleman is a member of the Committee on the Judiciary, is he not?

Mr. SCHUMER. Mr. Speaker, I am.

Mr. SOLOMON. Mr. Speaker, that is the committee. I suggest the gentleman take it up with his committee.

Mr. SCHUMER. So the answer is, the gentleman will not give us a commitment.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, guess which State in the Union has the most aggressive juvenile justice laws? The State of North Carolina. If we measure it based on who tries and convicts more juveniles as adults, it is North Carolina. One-fifth of the juveniles tried, convicted, and sentenced as adults are in North Carolina.

The Republicans talk about do the adult crime, serve the adult time. We do it in North Carolina. But guess what? Under this bill, North Carolina would not qualify for funds under this bill. They say they want us to be aggressive, lock them up. But, no, they will not give us any funds under this bill. In fact, of all the 50 States, 39—at least—of the States do not qualify for funds under this bill, including North Carolina, which has the most aggressive laws.

Now, why? Because in North Carolina the judge decides whether somebody is going to be tried as an adult rather than the prosecutor deciding, and the Federal Government under this bill would require that the prosecutor make that decision rather than the judge making that decision. So we are going to be deprived of funds unless we change our laws to comply with the Federal law.

Does that make any sense? What we have found out is that one of the few States under this bill that would qualify is the State of Florida, which is the State of the sponsor of this bill. In fact, once we keep investigating, we may find that the only State in the Union that will qualify for funds under this bill is the State of Florida, the State of the gentleman from Florida [Mr. McCOLLUM].

What everybody ought to be asking themselves is, does my State get anything under this bill? The answer is going to be no for at least 39 out of the 50 States. We ought to reject this bill. Reject the rule. Send it back and let us do something worthwhile.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. DELAHUNT], a gentleman who has dealt with teenage juvenile delinquency for some 21 years and has compiled an outstanding record, and is now serving in Congress with us.

Mr. DELAHUNT. Mr. Speaker, I rise in opposition to this rule for very similar reasons that were just articulated so eloquently by the gentleman from North Carolina. This rule denies the House the opportunity to vote on an

amendment that I had intended to offer, that I had tried to offer which would have ensured that every State, every city, every town, and every county would be eligible to access the $1.5 billion authorized in this bill. It is important to understand that the bill before us, as others have articulated, imposes conditions on State and local governments—mandates, if you will—before they even have a chance to file an application to access that $1.5 billion.

In fact, to qualify just to access the $1.5 billion, approximately 40 States would be forced to legislate massive changes in how they deal with juvenile offenders.

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They would be compelled to enact laws that have not been proven to be effective and, in my opinion, will actually increase crime by sending kids to graduate schools for crime, and it does not make any sense.

We should know that only 12 States can even file an application under the terms of this bill, and it is unclear whether even all of them would qualify. Once again we have Washington telling the States and local governments what to do. Washington has the answers. Well, Washington does not have the answers. The State and local governments do.

As my friend from Massachusetts, Mr. MOAKLEY, stated in his opening remarks, the city of Boston has not had a single juvenile murder since July 1995, almost 2 years. They instituted a plan, a local plan, that combined prevention, intervention, prosecution, and treatment. They knew what they were doing. They did not need Washington to tell them what to do. Yet under this bill Boston would not qualify for funding despite those remarkable results. That does not make sense to me, but Washington knows best.

If those from California, those from Ohio, and Pennsylvania, Texas, or Illinois, just to name a few, want to access some of these Federal dollars to try the Boston approach, they cannot do so because their laws do not meet the conditions in this bill. But again, Washington knows best.

The reality is that Washington cannot know best because there is no Federal experience in this area, no Federal juvenile justice system, no courts, no judges, no detention centers, no probation departments. In fact, as the primary sponsor indicated, there are fewer than 200 juveniles currently serving Federal sentences, compared with the 300,000 juvenile offenders locked up in State juvenile facilities.

Given those facts, we have no business imposing national standards on the States and localities that are working to solve the problem of juvenile justice. Let us help them, not tell them what to do.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Bolivar, MO, Mr. ROY BLUNT, one of the outstanding new Members in this body.

Mr. MCCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding to me for the moment.

I just want to respond to the fact that nobody expects this bill to be something that every State or maybe any State qualifies for right now. The whole purpose is for incentive grants.

The idea is to get the juvenile justice system in this country going again. No State has to do anything under this bill. There is no mandate in here. But if the States want the money, then they will have to at least demonstrate that they are punishing, sanctioning with some sanction, for the very first juvenile delinquent act and every one thereafter.

Then once they get the money, they can spend it as they want to fight juvenile crime. But that is the idea.

Mr. BLUNT. Mr. Speaker, reclaiming my time, I rise in support of the rule, I rise in support of this concept. Normally, I would be on the side of my friend from Massachusetts on this issue, because I think these are issues that are generally best left to the States.

But I think, clearly, juvenile crime has exceeded the bounds of the States. It is clearly an interstate problem. It is clearly a problem that trafficks easily from one State to another.

I also disagree with the idea that this puts juvenile criminals in a graduate school for crime. They have already been in a graduate school for crime. We call that graduate school for crime gangs.

Now, this is not about Dennis the Menace. This is not about somebody violating a few rules. This is not about Dennis the Menace; it is about Billy the Kid. And I think we need to stop Billy the Kid. I think we need to stop that pattern where actually, in gangs, they turn to the young gang members and tell them to commit the crime because they are not going to have to face the penalty.

This is something that States will benefit from. States like Missouri and Massachusetts and North Carolina can meet the requirements of the bill and can qualify.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to my fellow freshman, the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, I ask my friend from Indiana if he is ready and prepared to go back and tell his Governor, to tell his State legislature that we have the answers here in Washington and they cannot be resolved by the State of Indiana and by the communities in Indiana? Is that what the gentleman is suggesting to me?

Mr. BLUNT. Mr. Speaker, I would say to the gentleman that, being from Missouri, I would be glad to tell the Governor of Indiana that, but I will also tell the Governor of Missouri that.

I think this is a problem that, as we have seen crime decline all over the country in total statistics, we have seen juvenile crime rise rapidly.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California, Mr. DUKE CUNNINGHAM, a very respected Member of this body.

Mr. CUNNINGHAM. Mr. Speaker, the gentlewoman a moment ago spoke on trigger guards, and I understand she had a personal family loss and I do not know how I would handle that myself. I would also let the gentlewoman know I am a member of the NRA, and that I have trigger guards, or my weapons are all in safes and my daughters and my son have been taught how to use those in a safe manner.

In fact, the keys are in a different position, in case one of their friends walks in and finds it, so they will not have an accident.

But I would also advise my friends on the other side to look into COSCO, who shipped in 2,000 fully automatic AK–47's. The actual gun runners themselves were in the White House and contributed to the DNC; Mr. Huang, who contributed and arranged $366,000 for COSCO, a company owned by the Communist Chinese.

I would ask that they look into the M–2's that were going down to Mexico to disrupt those elections, so they put leftists in their legislature. And do my colleagues know where the AK–47's were impacted and headed for in San Francisco, in my State of California? They were targeted for the inner city gangs. These are fully automatic weapons, which we do not sanction.

But I would ask for a little bit of clarity when my colleagues point fingers. Let us take a look at where the threats are in this country and let us try to stop them, but we also need to look inwardly.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for his courtesy, and I would make two quick points. On the gentleman's first point, as an NRA member, the gentleman has safety provisions on his guns. For automobiles we require, and throughout America, that people wear seatbelts. There is no difference here. The gentleman is good that he does it; other people do not. We can save lives by requiring them.

Second, on the gentleman's other point on the importation of assault weapons, we have tried in this House to get amendments to the floor to allow

that to happen. Repeatedly, we were not allowed.

Mr. CUNNINGHAM. Mr. Speaker, reclaiming my time, I would ask the gentleman's help in stopping the Communist Chinese COSCO from taking over Long Beach Naval Shipyard.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. MILLENDER-MCDONALD].

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would say to the gentleman from California [Mr. CUNNINGHAM] that he should really stop his propaganda on COSCO. He is ill-advised, and therefore he should stop that with reference to COSCO and Long Beach.

Mr. Speaker, I rise today in strong opposition to the rule on H.R. 3, the Juvenile Crime Act of 1997. This closed rule would severely limit our ability to offer important amendments to this legislation. I am particularly concerned that the rule precludes amendments to protect children from the accidental discharge of firearms.

As elected Representatives we have an important responsibility to advocate for our Nation's children by prohibiting the transfer of a firearm without a child safety lock as an integral component.

Every year hundreds of children between the ages of 1 and 19 are killed by the unintentional discharge of handguns. Since 1987, more than 4,000 innocent boys and girls have lost their lives through unintentional firearm deaths.

The loss of these young children can be prevented, which is why I have authored the Firearm Child Safety Lock Act of 1997. This legislation would prohibit any person from transferring or selling a firearm in the United States unless there is a child safety lock.

Further, this legislation would prohibit the transfer or sale of firearms by federally licensed dealers and manufacturers unless a child safety lock is part of its assembly.

However, legislation is not enough. Responsible handgun owners should child-proof their firearms whether they have children or not. I have outlined a number of child-proofing options and would like to submit them for the RECORD.

The Firearm Child Safety Lock Act of 1997, once enacted, will prevent the future loss of lives of our innocent children. These are our children, our sons and our daughters, and the future of this country. As parents and leaders it is our obligation to protect our children from senseless deaths caused by the unintentional discharge of firearms.

This is not gun control, this is a safety measure. If gun owners want to be nice people, as stated by the NRA's president, Wayne LaPierre, then they would support this amendment and curb the senseless deaths of our country's children due to unintentional discharge of firearms. For this amendment and other amendments I urge my colleagues to oppose this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am not sure if my good friend from California is still on the floor of the House, but it is disappointing when my friend from California accuses adults of gun running but he wants to lock up the children.

I rise to oppose this rule because I thought we could come to the floor of the House and reasonably look at the statistics on juvenile crime and juvenile crime prevention and really respond accordingly. I thought, for example, that we would understand that this bill is nothing but a punitive bill with no resources to address the questions of concern in making sure that we prevent juvenile crime.

One, we want to expose the records to the public rather than giving the records only to school officials and social service agencies. We do not want to rehabilitate the child; we want to punish the child so that they never have the opportunity to be rehabilitated. We want to house children in this bill without looking at the ramifications of housing children with adults.

We had amendments that I offered that were not accepted by the Committee on Rules. I am disappointed in that, not because we need to discuss more air on the floor of the House, but really what we need to do is put a bill together that we can all support.

Certainly, I think it is very important that even though we all talk about we believe in the safety of guns, it does not appear to be reasonable that a simple act of having a trigger lock could not be an amendment for this particular bill.

I hope this bill goes off the floor of the House, goes back to being addressed and assessed, and realizes that the best thing to do for all of us is that helping children should be the key element of juvenile law coming out of this Congress. We should, in fact, make sure we do not house children with adults, and we should, in fact, make sure that we can provide the amount of prevention dollars, and we should protect children from the unwarranted use of a gun and protect them from the detrimental act of the reckless use of a gun.

Mr. Speaker, I rise to speak in opposition to the rule on H.R. 3, The Juvenile Crime Control Act of 1997. As a member of the Judiciary Committee, I have spent a great deal of time over the last 2 months analyzing and debating the problem of juvenile crime. I am sure that my colleagues on both sides of the aisle would agree with that this is a very complex and controversial issue. It is for these reasons that I am disturbed that H.R. 3 was not given an open rule.

There are a number of provisions in H.R. 3 that cause me grave concern. In an attempt to remedy some of the more grievous provisions in H.R. 3, my colleagues and I offered amendments to the Rules Committee. Very few of these amendments—amendments that I believe would have garnered great support, support on both sides of the aisle—were made in order.

In particular, I am troubled that no amendments were made in order addressing the controversial issues of housing juveniles in adult prisons and releasing juvenile records to the public. In partnership with Mr. WATT, I prepared an amendment addressing the problem of housing juveniles with adults. Our amendment required that for States and local governments to be eligible to receive grant funds they must house juveniles who are tried as adults separately from adult inmates in facilities so that they have no contact with adult inmates until they reach 18 years of age.

I also had an amendment which would have ensured that predisposition juveniles would have no contact with adults in prison. My amendment did not address the juvenile who has been convicted of a violent crime. In fact, my amendment attempted to protect those children who have not yet even been found guilty from the dangers of housing them with adults. Without this amendment there is a very real possibility that an innocent child will be mistakenly arrested and suffer in prison in the company of adults.

On any given day approximately 2,400 children are held as juveniles in adult jails. Over the course of a year more than 65,000 children are held in adult jails.

Adult jails, however, are very different from facilities designed for juveniles. In particular, most adult facilities have inadequate rehabilitation programs, health or education programs for juvenile offenders. Most juvenile facilities have a full educational program for incarcerated youth. Juvenile facilities also have additional programs such as exercise and recreation. In contrast, too often, children held in adult jails spend all day sitting in their cells.

Additionally, all available evidence suggests that placing juveniles in adult jails places them in very real and very serious danger. They are at serious risk for rape, assault, and even murder. A 1989 study by Jeffrey Fagan titled "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy" showed that children housed in adult facilities are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, and 50 percent more likely to be attacked with a weapon than juveniles confined in a juvenile facility.

On April 25, 1996, six adult prisoners murdered a 17-year-old boy while he was incarcerated in the juvenile cellblock of an adult jail in Ohio.

In Idaho, a 17-year-old boy held in an adult jail for not paying $73 in traffic fines was tortured over a 14 hour period and then finally murdered by other prisoners in his cell.

In Ohio, a 15-year-old girl who had never been in trouble before ran away from home for 1 night. Although she voluntarily returned to her parents, she was put in the county jail by a juvenile court judge "to teach her a lesson." On the fourth night of her confinement, she was sexually assaulted by a deputy jailer.

It is already too easy to find examples of children who have been assaulted or lost their lives needlessly in adult jails. We have a responsibility to act and stop there from being many more.

A third provision in Mr. MCCOLLUM'S bill that causes me grave concern is that which opens juveniles records to the public. The juvenile justice system was founded on the principle that juvenile offenders are children and as such should not be held to the same standard of culpability as adult offenders. The juvenile justice system has been based on the premise of rehabilitation; to provide the juvenile access to programs and life skills that he or she has not gained in the community. When the juvenile reenters the community he or she is to begin fresh without the public stigma of a criminal record.

H.R. 3, however, requires that in order for States and local governments to be eligible to receive grant funds they must maintain records for any adjudication of a juvenile who is adjudicated delinquent for conduct that if committed by an adult would constitute a felony in a records system equivalent to that maintained for adults who commit felonies. My amendment would have deleted this requirement for both States and local governments and also stated that in the Federal system juvenile records would not be available to the public as required by H.R. 3. Instead, the amendment required that juvenile records be made available only for official purposes.

Like my colleagues, I am very concerned about the rising rate of juvenile crime. I agree that to protect the public from certain of these juvenile offenders law enforcement officials and certain social service organizations must have access to juvenile records. I am convinced, however, that publicly disclosing the court records of juveniles will permanently stigmatize the child at an early age which will follow the child into adulthood; thus, inhibiting efforts to rehabilitate the child as well as the child's future employment and educational opportunities. It seems to me that to burden an already fragile child with this additional handicap is extremely unwise for both that child and for society in general.

I urge my colleagues to vote against this modified close rule and in so doing open the debate on juvenile justice to address a number of the most concerning provisions of H.R. 3.

Mr. SOLOMON. Mr. Speaker, I yield 4½ minutes to the gentleman from Florida [Mr. MCCOLLUM] the distinguished chairman of the subcommittee.

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Mr. MCCOLLUM. I thank the gentleman for yielding me this time.

Mr. Speaker, I believe tonight as we prepare to vote on this rule, we need to understand this whole process in concept and in construct.

Back a few years ago, we passed some provisions of law here in the Federal arena designed to encourage the States to do what we call truth-in-sentencing. That is, we found that we have people who commit violent crimes that were going through a revolving door and serving only about one-third of their sentences. They wound up in that situation with a status where they hardly were in before they were out in many cases. They went right back on the streets and were committing violent crimes. While that was primarily State crimes they were committing, we thought an incentive grant program was a good idea and we had a pretty overwhelming majority pass a provision that said that if States pass laws that will require that repeat violent felons serve at least 85 percent of their sentences, then they are going to get a very large sum of money from the Federal Government in the form of a grant program, to construct more prisons with, to help them in the process back home that they need these resources for. We did accomplish that.

In fact, now the national average, because more than 20 States have qualified for this money, not many if any qualified at the beginning, because more than 20 now have gone out and done it, we see that the national average for time served in this country has gone up from a third of the sentence to nearly 50 percent of the time in a violent offense that is served. It is a model for what we are out here trying to do today. We are trying to create another incentive grant to the States that says: States, here is money to spend as you want to fight violent juvenile crime. You can start at the early levels, do what you want to basically with it, more judges, more probation officers or whatever, but if you are going to do that, then we expect you to do the four things we think are really critical to reviving the juvenile justice system to put consequences back in it again. Because we are seeing law enforcement officers not even taking kids before juvenile courts because they do not expect them to get any kind of punishment. If a kid vandalizes a store or spray-paints a building, should that youngster not get some consequences, community service or something for that even if it is the first offense? The answer is clearly yes. Because they do not get consequences, then that bad behavior is more likely to continue. If we do put consequences for those early juvenile delinquent crimes, then we are less likely to get more violent crimes from these juveniles later on. It is common sense. It is what all juvenile court authorities tell us and have told my subcommittee.

So we have put out a little core group of things to qualify to get the money. Then you can spend it as you want to. We are not telling the States how to spend the money, but we are telling the States: Here is a carrot, here is something like we did with the truth-in-sentencing grants, if you do these things, three or four simple things, the primary one of which is to start sanctioning the very first delinquent act and then have graduated sanctions for every delinquent act thereafter, such as community service and so on, then you can get the money. And if you have the provision that allows your prosecutor, which most States do but not all, allows your prosecutor to try as an adult a 15-year-old or older who commits a serious violent felony, that is important. And, third, we need you to keep records. Records are not being kept the way they should be. We do not know how these juveniles are doing. If they have committed a felony, that has to be a felony and it has to be the second offense. It could have been a misdemeanor spray-painting the house or whatever the first time. Only then. But then if they do and they have committed a felony, then you have got to keep the records and make them available just as you would for adults. And you have got to let judges, the judges do not have to do this, you have got to let your judges hold parents accountable, not for the juvenile delinquent act but when the juvenile delinquent comes before them, for that parent to be instructed by the court: Here is what we want you to do to oversee your child. If you do not do it, you might get a fine or maybe you will do community service. These are the things that are broken nationwide. It is a national crisis. We really need to do it.

We are not doing as some on the other side would say, characterizing this as telling the States what to do. We are trying to create a national interest in this with a little bit of money knowing the States have got to come forward with a lot more resources if juvenile judges in this country are to do the jobs they all want to do and enough probation officers are hired to do it. That is what this is all about.

There are a lot of other things we have to do. We hope someday that families are put back together again. We do not want the situations where we have so many single parents out there and no role models. We want truancy laws corrected, we want more education for our kids, we want to get at the gang problems, we want to do a lot of other things we do not do in this bill. There will be other bills, there are going to be other bills that address those matters as best we can, though many of them frankly have to be addressed in the local communities and money is not the answer to all of them. Volunteer time, organization and effort is. Yes, there are other things. But tonight the one thing we are voting on is a rule that would allow a juvenile justice repair bill to go through to provide incentives to the States.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey [Mr. PASCRELL].

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from New Jersey is recognized for 2½ minutes.

Mr. PASCRELL. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me time on this disappointing rule, on which I rise in strong opposition.

Yes, we need to repair our juvenile justice system, but first we need to get our priorities in order and that is what we should be about. I speak as a former mayor of a large city and now as a Congressman from the Eighth District. While I am pleased that this House is going to take a good look at our juvenile justice system and how we can improve it, the majority is denying us the opportunity to discuss commonsense anti-gun violence efforts as part of this legislation.

Our priorities should be about those young people who are in the galleries listening to us debate this issue, and how we can prevent violence from occurring in our streets. Every day American youths are injured and killed by guns. A staggering 1 in every 4 teenage deaths are gun-related. These numbers do not even take into account the number of crimes committed by juveniles with guns. Few factors have had as direct an impact on the increase in violent youth crime over the last 10 years as have guns. Juvenile arrest records for weapons law violations are up 103 percent since 1985, a rate that is clearly unacceptable to all of us in this room.

This House is only fooling itself if we believe for a second that we can effectively address the issue of youth violence without addressing gun violence. If we are truly serious about making our streets and neighborhoods safer, keeping those young kids safe and alive, we need to get serious and have gun violence addressed in this juvenile bill.

The Democratic substitute that we originally brought to the Committee on Rules would have addressed the gun issue. The real losers under this rule are the millions of Americans who live in fear of violent youth crime, mixed up with gangs and armed to the teeth. The majority is keeping us from implementing commonsense rules.

This is for young people. If we truly love them and wish to protect them, then let us put the amendments before this body.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise people sitting in the gallery that they are prohibited from reacting to speeches on the floor.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York is recognized for 2¼ minutes.

Mr. SOLOMON. Mr. Speaker, we have heard a lot of rhetoric here today. I think the gentlewoman, I believe it was from Texas, made the statement that she was concerned that this bill before us today was going to put children in jail. Let me inform the gentlewoman and anybody else in this Chamber that for the last 40 years we have coddled criminals in this country, and we have made it very, very difficult for the people that suffered under those criminals.

What this legislation does is, yes, it does lock up children. Who are those children that we want to lock up under this bill? They are those that are old enough to commit murder and rape and brutal assaults against women and children in this country. They deserve to be in jail. This bill before us is going to send that kind of a message.

There are a lot of myths about this bill. I will include for the RECORD a list of all of those, there are 10 of them, that explain some of the rhetoric that has taken place in this debate.

In closing, let me just say this. Watch for the vote on final passage of this bill and Members will see that all of the talk in opposition to it was a lot of rhetoric, because this bill will pass overwhelmingly, and will send a message to these young rapists and murderers and brutal assaulters of women and children in this country: We are not going to stand for it any longer.

Mr. Speaker, I include the following for the RECORD:

TOP 10 DEMOCRAT MYTHS ABOUT H.R. 3 AND THE JUVENILE JUSTICE SYSTEM

MYTH 1: PROSECUTORS WILL BE FORCED TO TRY JUVENILES AS ADULTS

H.R. 3 mandates that certain juveniles be prosecuted as adults. Federal prosecutors must choose between prosecuting these juveniles as adults or not prosecuting at all.

FACT: PROSECUTORS HAVE DISCRETION IN EVERY CASE

H.R. 3 allows prosecutors in every instance to either refer a juvenile offender to State authorities, prosecute the offender as a juvenile, or proceed against the offender as an adult. In the case of murder and other serious violent felonies, H.R. 3 includes a presumption that juvenile 14 or older should be charged as an adult, but the prosecutor has the discretion to charge the offender as a juvenile.

MYTH 2: JUVENILES WILL BE HOUSED WITH ADULTS

H.R. 3 will allow the federal government to incarcerate juveniles in the same cell with adult criminals. Moreover, juveniles prosecuted as adults will be housed with adults after they are convicted.

FACT: JUVENILES WILL NOT BE HOUSED WITH ADULTS

H.R. 3 explicitly prohibits housing juveniles with adults. There can be absolutely no regular contact between juveniles and adults criminals during any stage of the justice process.

MYTH 3: ALL PUNISHMENT AND NO PREVENTION

The Republican approach to addressing the juvenile crime problem is narrow-mined: it focuses solely on punishment and is silent on prevention.

FACT: PREVENTION PLUS

Accountability is prevention: When youthful offenders face consequences for their wrongdoing, criminal careers stop before they start. H.R. 3 encourages states to provide a sanction for every act of wrongdoing, starting with the first offense, and increasing in severity with each subsequent offense, which is the best method for directing youngsters away from a path of crime while they are still amenable to such encouragements.

Moreover, this bill is only part of a larger legislative effort to combat juvenile crime. The prevention funding in the Administration's juvenile crime bill falls under the jurisdiction of the Committee on Education and the Workforce. That committee will be bringing forth a juvenile crime prevention bill within the next several weeks. In addition, that bill will be a small but significant part of the more than $4 billion dollars which will be spent by the federal government this year on at-risk and delinquent youth.

MYTH 4: H.R. 3 IS BIG GOVERNMENT AT ITS WORST

H.R. 3 takes a one-size-fits-all approach by strictly limiting how localities can spend their grant funds.

FACT: LOCAL GOVERNMENTS HAVE FLEXIBILITY

Under H.R. 3, States and local governments have extensive flexibility. H.R. 3 provides funds to States and units of local government to be used for a wide variety of juvenile crime-fighting activities ranging from building and expanding juvenile detention facilities, establishing drug courts and hiring prosecutors to establishing accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies.

MYTH 5: H.R. 3 ATTEMPTS TO MICRO-MANAGE THE STATES

H.R. 3 sends the message that Washington-knows-best: States must do it the federal government's way or no way. H.R. 3 places so many requirements on States in order to receive funding that few States will want to qualify.

FACT: LIMITED INCENTIVES TO ACHIEVE BENEFICIAL REFORMS

Creating incentives for the States to reform their juvenile justice systems is desperately needed. When encounters with the juvenile justice system teach juvenile offenders that they are not accountable for their actions, the system is broken. Never before has there been a greater imperative for the juvenile justice system to be working than now. Too many jurisdictions are held captive by bureaucrats that strictly adhere to the old, discredited juvenile justice philosophy that young criminals are not responsible for their actions. Many Republican governors have put forward juvenile justice reform proposals that have been blocked by liberal legislators. Like our truth-in-sentencing incentive grant program, we can help our allies at the State level to transform America's justice system.

MYTH 6: VERY YOUNG OFFENDERS ARE NOT THE PROBLEM

H.R. 3 is over-reaching in that it unnecessarily expands the list of serious violent crimes for which 13 year-olds can be prosecuted. There is no evidence which proves that 12-, 13-, or 14-year-olds are any more dangerous than they were 20 years ago.

FACT: YOUTHFUL BUT DANGEROUS

Juveniles 15 and younger were responsible for 64 percent of the violent offenses handled by the juvenile courts in 1994. Between 1965 and 1992, the number of 12-year-olds arrested for violent crime rose 211 percent; the number of 13- and 14-year-olds rose 301 percent; and the number of 15-year-olds rose 297 percent.

MYTH 7: THE ADULT COURT SYSTEM IS MORE LENIENT ON JUVENILES

Juveniles tried in adult criminal court are more likely to have their cases dismissed and serve shorter sentences than juveniles referred to juvenile court.

FACT: MOST JUVENILES ARE HELD ACCOUNTABLE IN THE ADULT SYSTEM

According to GAO, most juveniles prosecuted for serious offenses in adult criminal court are convicted and incarcerated. Barely one-third of juveniles prosecuted for serious offenses in juvenile court are convicted and confined. Juveniles prosecuted in criminal court are subject to the same sentencing guidelines as adult defendants in criminal court. While a few studies show that juvenile property offenders may not receive longer sentences in adult court, several studies show that violent juveniles receive longer sentences in adult criminal court than in juvenile court.

MYTH 8: VIOLENT JUVENILES ARE ALREADY EFFECTIVELY TREATED AS ADULTS

Juvenile judges are already waiving large numbers of serious violent juveniles into the adult system, H.R. 3 would limit the power of juvenile judges to make these decisions.

FACT: LEAVING IT UP TO JUVENILE JUDGES IS NOT GOOD ENOUGH

In 1994, only 1.4% of all delinquency cases—the same percentage as in 1985—are transferred to adult court. Juvenile court judges transfer just under three percent of violent juvenile offenders to adult criminal court. For juveniles to be held accountable for their violent acts, prosecutors must have a say in this process!

MYTH 9: PREVENTION IS RESEARCH-PROVEN

The Republican approach to fighting juvenile crime ignores the fact that prevention is cost-effective and research-proven. After-school programs and drug treatment programs should be included in H.R. 3 since so little is being done in those areas.

FACT: FEDERALLY-FUNDED PREVENTION HAS PROVEN "INEFFECTIVE"

According to a comprehensive Justice Department-commissioned study published last month, "Recreational, enrichment, and leisure activities such as after school programs are unlikely to reduce delinquency" * * * "Midnight basketball programs are not likely to reduce crime." Programs like it may actually increase the risk of delinquency by combining lower-risk and high-risk students in the same activity and by providing space for high-risk youth to interact.

Moreover, according to the General Accounting Office, the federal government already funds for at-risk and delinquent youth: 21 gang intervention programs, 35 mentoring programs, 42 job training assistance programs, 47 counseling programs, 44 self-sufficiency programs, and 53 substance abuse intervention programs.

MYTH 10: LESS CONFINEMENT, NOT MORE

We need more prevention and alternatives to incarceration not more detention cells. Juveniles need to be diverted away from a life of crime, not thrown in prison in the prime of youth.

FACT: JUVENILES ARE NOT HELD ACCOUNTABLE

Because our juvenile justice system is so woefully inadequate, juveniles quickly learn, "I can beat the system." Only 10 percent of violent juvenile offenders—those who commit murder, rape, robbery or assault—receive any sort of institutional "placement out-side the home." The small percentage of juveniles who are placed in confinement for such violent offenses will be back on the streets in an average of 353 days. Almost half of all juveniles arrested for violent offenses receive probation, fine, restitution, or community service.

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 SPEAKER pro tempore. The question is on the resolution.

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

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 159, not voting 22, as follows:

[Roll No. 109]

YEAS—252

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCarthy (MO)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Tanner
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—159

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Bentsen
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dixon
Doggett
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Matsui
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Skaggs
Slaughter
Snyder
Spratt
Stabenow
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—22

Andrews
Becerra
Berman
Boucher
Clay
Dicks
Dooley
Ehrlich
Filner
Gephardt
Greenwood
Harman
Linder
Martinez
McKinney
Pelosi
Pombo
Schiff
Stark
Talent
Tauzin
Yates

□ 2028

Ms. DEGETTE and Messrs. FARR of California, OWENS, OBERSTAR, and

BARCIA changed their vote from "yea" to "nay."

Mrs. MORELLA and Mr. MASCARA changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. BONILLA). Pursuant to House Resolution 143 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. 3.

□ 2030

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. 3) to combat violent youth crime and increase accountability for juvenile criminal offenses, with Mr. KINGSTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentlewoman from Texas [Ms. JACKSON-LEE] will each control 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

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

Mr. Chairman, let me begin by expressing my appreciation to the chairman of the full Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], my good friend, for his leadership and to the gentleman from Michigan [Mr. CONYERS], the ranking member of the full committee, and the gentleman from New York [Mr. SCHUMER], the ranking member of the Crime Subcommittee, and their staffs for their cooperation in the development of this product that we have out here tonight, H.R. 3. The gentleman from New York [Mr. SCHUMER] in particular has worked very cooperatively on this bill. We disagree on some issues, but we have worked in good faith and have reached as much consensus as possible.

Mr. Chairman, today we begin consideration of one of the most important issues we will tackle in this Congress: The issue of juvenile crime. Every effort we undertake as lawmakers to improve the lives of our fellow citizens, whether it is about education, health care, housing, or flood control, the success of every effort depends upon the existence of an ordered society. If Americans are afraid to walk to the corner grocery store, or must worry about the safety of their children at school, economic growth, or improved education does little good.

The clear truth is, Mr. Chairman, our constituents should be worried. America's juvenile justice system is broken. Violent juvenile crime is a national epidemic, and unless something is done quickly, it will soon get considerably worse.

Listen to these statistics: Offenders under the age of 18 commit more than one out of every five violent crimes in America; that is one-fifth of all murders, rapes, robberies, and assaults. In 1995, they committed nearly 2 million crimes; 18-year-olds committed more murders than any other age group and 17-year-olds, more rapes. Juveniles 15 and younger were responsible for 64 percent of the violent offenses handled by the juvenile courts in 1994.

Here is the really bad news: If these trends continue, juvenile arrests for violent crimes will more than double by the year 2010. The FBI predicts juveniles arrested for murder will increase 145 percent, forcible rape arrests will increase 66 percent, and aggravated assault arrests by 129 percent.

Why? In the remaining years of this decade and throughout the next, America will experience a 31-percent increase in teenagers as the children of baby boomers come of age. In other words, we are going to have a surge in the population group that poses the biggest threat to public safety.

Mr. Chairman, many academics and some in law enforcement fail to recognize the magnitude of this looming crisis. They cite the decline of the rate of violent crime in each of the last 4 years as proof that the fear of crime that permeates society is unfounded.

Yes; the rate of violent crime per capita has gone down, but it is four times higher than it was in 1960. In that year, this country experienced 160 violent crimes per 100,000 people. In 1995, there were 685 violent crimes for every 100,000 people. Last year's 10 percent decline hardly put a nick in this. There is a real danger of immediate and sharp reversal with the teen population boom ready to spring on us in the coming decade.

We are here tonight because the juvenile justice system is unprepared for this coming storm. It is broken, and its failures have contributed to the magnitude of the present problem.

Statistics paint a picture of a juvenile justice system in collapse. The percentage of violent juvenile offenders who are sentenced to confinement has actually decreased in the last 4 years. Only 10 percent of violent juvenile offenders receive any sort of institutional confinement, and that small percentage is back on the street in an average of 353 days. In other words, a juvenile who commits a cold-blooded murder can be walking our neighborhood in less than a year.

Of course, most juveniles receive no punishment at all. Nearly 40 percent of violent juvenile offenders who come into contact with the juvenile justice system have their cases dismissed. It is not unusual for a youngster to come before a juvenile judge 10 or 12 times before any punishment is imposed. By the time the courts finally lock up an older teen for a violent crime, the offender has a long rap sheet starting in the early teens, or maybe younger. According to the Justice Department, 43 percent of juveniles in State institutions had more than 5 prior arrests, and 20 percent had been arrested more than 10 times.

Perhaps even worse, juveniles who vandalize stores or homes or write graffiti on buildings rarely come before a juvenile court. Police officers seldom see these kids and seldom refer them into custody, knowing there is little chance that they will receive punishment. Kids do not fear the consequences of their actions because they are rarely held accountable, and that is where the rub really lies in this whole situation.

We are looking at a case, for example, of Daniel Doe in Ohio. What is wrong with the juvenile justice system?

At age 12, Danny was arrested for vandalizing a neighbor's house. He had spray painted the walls, wrecked the furniture, and even went so far as to drown the pet bird in the bathtub. At 14 his criminal behavior had escalated to burglarizing an apartment. In the process he beat an elderly resident who died several days later from complications. For this crime he was convicted of involuntary manslaughter.

Danny then entered the adult criminal justice system at the age of 19 when he brutally beat a middle-aged woman in the act of burglarizing her home. He was sentenced for his crime, but by that time his juvenile arrest record had been erased. For the second time in the eyes of the law, Danny was treated as a first-time offender. The judge, ignorant of his violent past, gave him probation. Danny then went on to beat an elderly man to death in yet another burglary 2 months later.

Who knows how many earlier minor crimes were not referred by police or adjudicated without punishment? Could Danny's life of violent crime have been prevented by an effective juvenile justice system? I would submit that perhaps it could have been.

Crimes committed by juveniles are primarily handled by the States, but the collapse of the system has created a national crisis. Congress needs to provide incentives to the States to stimulate a core of critically and urgently needed repairs of the juvenile justice system, just as it did 2 years ago when faced with violent adult criminals who were serving about a third of their sentences. Congress then enacted a truth-in-sentencing grant program offering money for prison construction to States which change their

laws to require violent offenders to serve at least 85 percent of their sentences. More than 20 States have now done so, and the average time served nationally is approaching 50 percent.

A similar grant program is at the heart of H.R. 3, the Juvenile Crime Control Act of 1997, before us tonight. It is $1.5 billion over 3 years that would be provided in this bill to States and local communities to hire more juvenile judges, probation officers or prosecutors, construct juvenile detention facilities or whatever they decide they need to improve their juvenile justice system. To qualify for a grant, a State would have to assure the Justice Department that it has accomplished four core reforms.

First, there must be a sanction such as community service for the very first act of juvenile delinquency and graduated sections for each delinquent act thereafter. Police and prosecutors must take young vandals before juvenile courts, and judges must impose punishment. If kids see the consequences to their early delinquent acts, far fewer will evolve into violent criminals.

Next, the State must ensure that prosecutors have the discretion to prosecute as adults juveniles 15 and older who commit serious violent crimes. Such teenagers need to be locked up for a long time, the same as violent criminals 18 and older.

Third, States must establish a recordkeeping system for juveniles adjudicated delinquents. This system would ensure that the records of any young offender adjudicated a delinquent two or more times are treated for the purposes of maintenance and availability the same as adult criminal records if the second offense or a later one is a felony. Today's common practice of keeping juvenile records sealed and erasing them when a juvenile reaches 18 must be stopped for those who are repeat violent offenders.

Last, State law must not prevent a judge from holding parents accountable, not for the delinquent act of the child, but for fulfilling a responsibility directed by the court at the time a sanction is imposed on a juvenile for a delinquent act. Juvenile judges must be given the authority to fine or otherwise sanction parents for not following court orders designed to force a parent to act responsibly in overseeing a child's behavior.

Without these core reforms and without an infusion of dramatically greater resources by the States to match the Federal funds, juvenile justice systems of our Nation cannot be revived. There are many things that need to be done to fight juvenile crime, but none are more critical than repairing our juvenile justice system.

The second thing this bill does is to establish a model Federal system for holding juveniles accountable for their crimes. These model procedures are designed to give prosecutors the control they need to protect the public, to give judges the authority they need to impose meaningful sanctions against all juvenile offenders, and to hold parents of juveniles responsible for supervising their children and to give law enforcement officials the records they need to know the criminal history of young criminals much like we are asking the States to do if they qualify to receive the block grant money under this proposal.

Under these procedures, no juveniles will be in prison with adults. Under current law, which is unchanged by this bill, all juvenile prisoners must be separated from adults. To those who say otherwise, I say read the bill. The committee rejected two provisions from the President's bill which would have loosened this standard.

Third, H.R. 3 enhances the Federal Government's tools for targeting, in limited situations, the most dangerous juvenile criminals. This bill is not a takeover of juvenile justice. It does not expand Federal authority. But when Federal enforcement is needed such as when State and local law enforcement officials are overwhelmed by violent street gangs, this bill will make Federal law enforcement more effective in protecting the public.

Finally, Mr. Chairman, let me briefly touch on the issue of prevention. We will hear a lot from the other side about prevention and the perceived inadequacies of this bill in the area of preventing crime. Well, I have three brief responses to this concern.

First, when there are real consequences for juvenile crimes, and when there are these real consequences, particularly crimes committed by younger offenders, we can stop criminal careers before they have a chance to get started. In other words, holding juveniles accountable is prevention.

Second, we must all remember that this bill is only a part of a larger legislative effort to deal with juvenile crime. The prevention funding in the administration's juvenile crime bill is in the jurisdiction of the Committee on Education and the Workforce. That committee will be bringing forth a juvenile crime prevention bill within the next several weeks. That bill will be a small but significant part of the billions of dollars that will be spent by the Federal Government this year to prevent crime.

Third, I still support the funding for block grants passed in the Contract With America that are now being used by local governments for crime prevention and supportive law enforcement. I will be working with appropriators to find the funds necessary to support both the juvenile justice grants in this bill and the more general purpose public safety block grants that were passed in the last Congress as a part of the appropriations process.

So Mr. Chairman, I look forward to the debate on this bill. I urge my colleagues to support H.R. 3 and begin the process of repairing America's collapsed juvenile justice system.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, when we started this process, I recognize that the gentleman from Florida sought out a great deal of data. As I have indicated earlier in my discussions on the floor regarding juvenile crime, it would really be nice if this was a bipartisan effort. But obviously, H.R. 3 is not a bill that addresses the question of juvenile crime prevention and real solutions.

Today, in a hearing before the Committee on the Judiciary, we heard from the Concerned Alliance of Men. It so happens that they say they cure crime, violent crime among youngsters, with a hug. Many of us would look at this in a very skeptical manner, but if my colleagues heard those gentlemen today, they would realize that we can prevent juvenile crime. We can prevent it with targeted efforts toward recognizing that prevention is important.

I asked the chairman why prevention and prevention efforts cannot be in this juvenile crime bill proposed by the Committee on the Judiciary. We have done it before. We did it in the 1994 crime bill. It worked.

This legislation will not make us safer but only divert attention from real and more difficult solutions. We need a balanced approach that encompasses both punishment and prevention. The juvenile justice systems were first established in the United States at the turn of the century, to emphasize rehabilitation for youthful offenders.

Today's youth may or may not be more troubled than in the past, but a system that treats juveniles differently than adults seeking through a combination of measured punishment treatment and counseling, to divert them from destructive paths and keep them within the fold of responsible law-abiding citizens still is an important and real approach in which we should go.

□ 2030

To be sure, violent and dangerous youth must be prevented from inflicting additional suffering. But the chairman recognizes that as the Judiciary Committee traveled across the country, it is well known that the bulk of juvenile crime falls within a small number of States.

We have good kids in America. Those that need help need it by way of counseling, prevention, and other means other than locking up juveniles with adults. We do not need to hear about

six adult prisoners who murdered a 17-year-old boy while he was incarcerated in a juvenile cell block in an adult jail in Ohio. Do we need to hear about, in Idaho, a 17-year-old boy held in an adult jail who was tortured and then murdered by other prisoners; or in Ohio, a 15-year-old who was raped while she was incarcerated? Why do we not have an amendment that separates adults from juveniles?

Recognizing that the Rand Corp. is not the most liberal think tank in this country, it has recently issued a report demonstrating that crime prevention efforts aimed at disadvantaged kids are more effective than tough prison terms in keeping our citizenry safe.

Then, what about the trigger lock? What an interesting approach H.R. 3 takes by refusing to stand up to the National Rifle Association, when 80 percent of Americans say a trigger lock is a valid approach to preventing juvenile crime. It does not seem to make sense. It does not seem that we are on a balanced approach.

The 1994 crime bill authorized funding for numerous juvenile prevention programs, as I said earlier. Since Republicans gained the majority, we have spent not a single cent for prevention. It seems we have missed the boat. We have missed the trigger. We have missed our direction. We are misguided. Rather than with a hug, recognizing that we can save more children with prevention, we now have on the floor of the House H.R. 3, in total disregard of all of the current knowledge that we have, and the body of law and the body of knowledge that says we can save our children with a better approach, more prevention.

Mr. Chairman, I rise to voice my concerns regarding H.R. 3, the Juvenile Crime Control Act of 1997. As a member of both the Judiciary Committee and the Democratic Caucus's Juvenile Justice Task Force, I have spent a great deal of time over the last months analyzing, discussing and debating this bill and I find the bill very troubling.

I want to say first that I agree that the enormous rise in the rate of juvenile crime is a serious problem that we, in this Congress, must address. I recognize that those persons who commit the most heinous crimes, be they juveniles or adults, must be punished. I am concerned, however, to see this bill focus on harsher penalties for juvenile offenders rather than addressing the reasons that so many children turn to crime in the first place. It seems to me that the failure to address these underlying reasons is terribly short-sighted. If we really hope to solve this problem and to reduce violence, we must address both parts of the equation—prevention and punishment.

Most public policy analysts confirm that early prevention programs offer the best hope to stem juvenile crime. They emphasize the importance of better schools and more job training, recreation and mentoring programs. Such initiatives provide children with positive role models and increase economic opportunities.

H.R. 3 allows children as young as 13 years old to be tried in adult court. Evidence, however, suggests that children tried as adults have a higher recidivism rate than comparable children tried as juveniles. Children tried as adults reoffend sooner, commit more serious offenses, and reoffend more often. For example, in Florida which pioneered mandatory waiver of juveniles into adult courts in the early 1980's, a recent study compared the recidivism rate of juveniles transferred to the adult criminal courts with those kept in the juvenile system. The study concluded that youths tried as adults commit even more crimes after release than do those allowed to remain in the juvenile system. Another study, comparing New York and New Jersey juvenile offenders, shows that the rearrest rate for children sentenced in juvenile court was 29 percent lower than the rearrest rate for juveniles sentenced in the adult court system.

There are a number of other provisions in H.R. 3 that I find disturbing such as that allowing juveniles to be housed predisposition in prison with adults and that making juvenile records available to the public.

Housing of juveniles in adult prisons places them in very real and very serious danger. A 1989 study by Jeffrey Fagan titled "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy" shows that children in adult institutions are five times more likely to be attacked with a weapon than juveniles confined in a juvenile facility. This fact is evidenced by a number of cases. On April 25, 1996, six adult prisoners murdered a 17-year-old boy while he was incarcerated in the juvenile cellblock of an adult jail in Ohio. In Idaho, a 17-year-old boy held in an adult jail was tortured and finally murdered by other prisoners in the cell. In Ohio, a juvenile court judge put a 15-year-old girl in adult county jail to teach her a lesson. On the fourth night of her confinement, she was sexually assaulted by a deputy jailer.

There are already enough tragic stories to document the ill-advised policy of housing juveniles with adults and in adult prisons. Do we really want to place more children in such a position of danger?

With respect to the release of juvenile records to the public, I am again troubled. The juvenile justice system was founded on the principle that juvenile offenders are children and as such should not be held to the same standard of culpability as adult offenders. The juvenile justice system has been based on the premise of rehabilitation; to provide the juvenile access to programs and life skills that he or she has not gained in the community. When the juvenile reenters the community he or she is to begin fresh without the public stigma of a criminal record.

I agree that to protect the public from certain of these juvenile offenders law enforcement officials and some social service organizations must have access to juvenile records. I am convinced, however, that publicly disclosing the court records of a juvenile will permanently stigmatize the child at an early age which will follow the child into adulthood; thus, inhibiting efforts to rehabilitate the child as well as the child's future employment and educational opportunities.

H.R. 3 is a flawed, one-sided piece of legislation. It focuses our energy and attention exclusively on only one-part of what is a complex problem. We must pursue a more balanced approach. If we are truly serious about stemming the tide of juvenile crime—and I do not doubt the sincerity of everyone in this body on that question—we must provide both punishment and prevention. The answer to the juvenile crime problem will not be found in the building of more prisons or the imposition of harsher sentences. We will only be successful in our battle against this crisis when we stop the creation of these young criminals.

Mr. Chairman, I share the concern about the problem of juvenile crime that led to H.R. 3. I do not, however, share H.R. 3's vision of a solution to this problem and I urge my colleagues to vote against H.R. 3.

Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a very active and strong proponent of the issues we are discussing in this bill.

Mr. WATT of North Carolina. Mr. Chairman, for the first time in this House I am going to speak from the Republican side, because I want to remind my Republican friends of a few things.

Mr. Chairman, let me put this bill in historical perspective. Go back through the whole history of America. At the Federal level, we have never, ever had a Federal juvenile judge. Never have we had a Federal juvenile probation officer. Never have we had a Federal juvenile facility.

The reason for that is that all throughout our history, juvenile justice has been a matter of State and local law. Yet, my conservative Republican colleagues all of a sudden have decided that we are going to federalize juvenile justice in this country. We do not even do a good job of criminal justice for adults, yet we are going to federalize and tell the States what they are going to do in the arena of juvenile justice.

Mr. Chairman, something is wrong with that. Something is also wrong with the fact that only 11 States, at most, will be eligible for any kind of grant under this bill. My State, where one-fifth of the juveniles have been tried and convicted and incarcerated as adults, in the whole United States the State of North Carolina still will not be eligible for funds under this bill. Why? Because we do not have open juvenile records; because our judges decide who gets prosecuted as an adult if they are a juvenile, not our prosecutors deciding it. We do not have a law that holds parents, sanctions parents if they do not closely supervise their children.

Three out of the four requirements to get funds under this bill we do not meet in North Carolina. We have the most aggressive juvenile justice system in America in North Carolina. Guess what States qualify for funds under the bill? The principal sponsor, his State qualifies. I would encourage all of us to look at what States qualify and defeat this bill.

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

Mr. Chairman, I would like to acknowledge there are provisions that require a State to qualify. I would doubt very many States technically qualify right now, because the purpose of the grant program the gentleman from North Carolina is talking about, the heart of this bill, is an incentive grant program to get the States to repair their broken criminal justice system.

The idea here is that we are attempting to get the States to move in the direction of doing things that are not very hard for them to do. I think 25 States, and I do not know that my State of Florida qualifies, the gentleman says the Justice Department says so, but I do not see that they do, because I do not see the courts sanctioning those early juvenile delinquent acts. I do not see them taking the first juvenile delinquent act in every case and giving some sort of punishment to it. I do not see the police referring the cases there. I do not think that happens in any State. But it is not hard to get there. The laws do not have to be changed, the States just have to start doing it.

In the case of the prosecutions with regard to adult offenses, very easy; all they have to do is give the flexibility to the prosecutors. They do not have to prosecute 15-year-olds and older that commit violent felonies as adults.

The recordkeeping requirements are easy to enact, and the question of allowing judges, I think most States probably do, but maybe a few do not, juvenile judges to hold parents accountable for things the judge charges them to do, very easy to qualify. But technically I suspect every State is not qualifying right now, but they are given a year to do that. That is the reason, the raison d'etre, for the existence of this bill; to repair, to encourage the States with a carrot, not a stick, to repair the broken juvenile justice system of this Nation.

I will yield to anybody saying that this is a primarily State function, not a Federal function, but we have a national crisis, and we need to do that.

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

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I thank the gentleman for yielding, Mr. Chairman.

Is it not ironic that the gentleman's State qualifies, and no other State in America qualifies?

Mr. McCOLLUM. Mr. Chairman, if I can reclaim my time, the gentleman said it did. I do not know that any qualify. I do not believe Florida qualifies.

Mr. WATT of North Carolina. What good is the bill if no one qualifies?

Mr. McCOLLUM. Florida does not qualify, in my opinion.

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

Mr. McCOLLUM. I yield to the gentleman from Oklahoma for the purposes of a colloquy.

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

The purpose of this colloquy is to discuss the grant program under the provisions of H.R. 3, and to ask the chairman as to his consideration for the youth challenge programs as presently run by the National Guard. There are 15 of them, and they have done a wonderful job in terms of improving the opportunities for young people.

There have been now over 30,000 young people go through that program. There is only one now incarcerated in the entire United States that has worked through that program. It is one of the Government programs that is effective, that works, that restores self-respect, restores dignity, and restores responsibility in young people that are at risk.

My question, Mr. Chairman, is will these youth challenge programs in the State of Oklahoma and other States qualify under this bill for the grant, the block grant moneys?

Mr. McCOLLUM. Mr. Chairman, I would say to the gentleman, yes, they would qualify. The local communities make that decision.

On page 24 of the bill, item number 11, it says one of those things for which they would qualify is programs establishing and maintaining accountability that work with juvenile offenders who are referred by law enforcement agencies or which are designed in cooperation with law enforcement officials to protect students and school personnel from drug, gang, and youth violence. So it would qualify under these provisions, in answer to the gentleman's questions.

Mr. COBURN. Mr. Chairman, I thank the gentleman.

Mr. WATT of North Carolina. If the gentleman will yield further, Mr. Chairman, the gentleman's State is going to have to do all these crazy mandatory things before this challenge thing is going to give him a dime worth of money.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, there are no crazy mandatory things in this bill. There are four core things that I have reiterated several times over tonight that the State must do to qualify for an incentive grant. We have lots of Federal grant programs out here in many areas on the books today which have far more restrictive elements in it than this does.

Democrats, on their side of the aisle, for years they have had all kinds of restrictions on how to spend money, how they spend money on various programs when they get it. We do not restrict that to any degree here. What we restrict is the qualifiers that have always been imposed in enormous numbers by the other side of the aisle.

Now tonight they are out here complaining about the three or four little things we want to have done to repair the juvenile justice system to qualify for Federal grant programs to repair that system.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT], a former member of the Subcommittee on Crime, and a strong and knowledgable person on these very vital issues.

Mr. SCOTT. Mr. Chairman, I thank the gentlewoman from Texas for yielding time to me.

Mr. Chairman, we know how to reduce crime. We know what works. We know what does not work. Studies have shown that Head Start, Job Corps, drug rehabilitation, truancy prevention, those kinds of programs that give young people constructive things to do with their time and adult interaction, those that increase their education and job opportunities, those are the kinds of things that work. Job Corps, Head Start, and others have been shown to save more money than they cost by reducing crime and reducing future welfare expenses.

Mr. Chairman, we know what sounds tough and does not work. We know that the sound bite—if you do the adult crime, you do the adult time—we know that if you treat more juveniles as adults, all of the studies show that the crime rate, the violent crime rate will go up if we codify that sound bite.

We know mandatory minimums have no deterrent effect on juveniles, because they do not make those kinds of calculations. They act impulsively. So we know what works, we know what does not work. We also know that when we say we are not tough, we have to recognize that we are already jailing more people in America than anywhere else on Earth. We have some communities that have more young people locked up in jails than they have in college.

We know that more money in prisons cannot possibly have, since we lock so many people up already, cannot possibly have an effect on the crime rate. So it makes no sense, waiting for the children to mess up and then lock them up, when it is cheaper to invest in crime prevention programs and prevent them from getting in trouble in the first place.

For example, the Rand study shows that parental training, the money put into that program, is three times more cost effective than the three-strikes-and-you-are-out, good, tough-sounding sound bite.

So we have today's bill, with the major provisions—treat more 13-year-olds as adults, and more young people treated as adults—proven to increase

violence; more exposure to mandatory minimums constantly, with no effect or deterrence; more money for prisons that cannot possibly do any good, since most States are already spending more in prisons than they are in higher education. Those are the kinds of things that do not make any difference at all.

So we have a choice. We can pass this good-sounding but ineffective bill, or we can defeat the bill and focus our attention on proven, cost-effective initiatives which will actually reduce the crime rate and make our streets safer.

I would hope we would defeat the bill, Mr. Chairman, and focus our attention where it can do some good.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 20 seconds.

Mr. Chairman, the gentleman from Virginia [Mr. SCOTT] has just made a valid point. Let me simply share for the RECORD, the average cost of incarcerating a juvenile for 1 year is between $35,000 and $64,000 a year. In contrast, Head Start costs $4,300 per child.

Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN], who has been an active participant on this and the Juvenile Task Force.

Ms. LOFGREN. Mr. Chairman, we think about juvenile delinquency, and we know it is a serious problem in our country. I think it is very easy for us to lose our way, however, because we do not, as a country, often make the distinction between what we need to do for justice compared to what we need to do for public safety. The two are not always the same.

For those who have been victimized by crime, there is never a fair answer. But we do know that victims of crime seek justice. They seek to be made whole. They seek punishment for those who did harm to them or to a loved one.

□ 2100

That is a human emotion that we all feel and share, and our hearts go out to victims of crime. However, punishment does not always mean that we will have a system that keeps us safe. Our job as legislators is to acknowledge and to provide for victim's need to have justice in the system, but in a more generic way to take thoughtful, accountable, cost-effective steps to prevent more victims from being created, and to make sure that we have a safe society.

The problem with H.R. 3 is that it takes $1.5 billion and puts it into systems that have not worked instead of putting it into systems that will keep us safer. We know when we look at the Federal aspects of the bill that it is very extreme. Automatic trial of 14-year-olds without judicial review who are alleged to have committed certain offenses will not make us safer.

When we look at the system put in place for the States, we have already heard the comments that most States will not be eligible for funds. We also have received a communication today from the National Conference of State Legislatures pleading with us to oppose the mandates that are embodied in H.R. 3.

We know that an ounce of prevention is worth a pound of cure. We should listen to the Nation's police chiefs. Nine out of ten of the police chiefs of America, in a recent survey, say that America could sharply reduce crime if government invested in some early prevention programs. Police chiefs picked investments in kids by a 3 to 1 margin over other alternatives, including treating and trying juveniles as adults.

So, yes, let us hold young kids accountable when they need to be. There are some teenagers who need to be tried as adults, who need to be held to adult standards. Our system provides for that, and it should. But if we do only that, if we neglect the thousands and millions of young people who are starting to go off track right now, we will never get ahead of this problem and we will do a disservice to public safety.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK], an ex-police officer who knows about prevention.

Mr. STUPAK. Mr. Chairman, we have a substitute that will be offered tomorrow which is a tough bill, it is smart and it is balanced.

The bill put forth by the majority party tonight is not smart and it is not balanced and its toughness only comes from trying to lock up young people. We have a carrot, says the majority. That carrot is based upon 197 juveniles that we have in the Federal system. Of those 197, 120 are Native Americans.

So we have 77 juveniles and we are using these 77 juveniles to be the carrot for the 300,000 juveniles that are around the States. So we tell them we have these certain incentives, these certain carrots, and therefore if they do what we tell them to do, we will make available $1.5 billion to punish young people.

The National Conference of State Legislatures wrote to all of us today and said the bill is an unfunded mandate. The Federal Government is now going to apply, and I will quote, "new rules nationwide regarding juvenile records, judicial discretion, parental and juvenile responsibilities; these present new obstacles for the States that need Federal funds." And, therefore, they oppose the bill. The State legislatures, the council oppose the bill.

What have you done? You give zero money for early intervention, zero money for detention, zero money for prevention, and instead you want to try 15-year-old kids as adults with the option of trying 13-year-old kids as adults and you say that they got to do what Congress says; if not, they get no money. Only 12 States will get money; well, maybe 11. My State of Michigan will receive no money.

You say you do not know what is in there. Your own report from the conference, your own report from your committee, the majority and minority report lists the 12 States. Thirty-eight States plus the District of Columbia cannot partake in this bill. And this is a balanced approach to law enforcement?

You say you are going to get tough because if you get tough, you will stop crime before it starts. Well, I was a cop. I was there. The old ways do not work. If we continue down your way of locking up every kid who steps out of line, we cannot arrest our way out of this problem. We are going to lose a whole other generation of young people. We will lose a whole other generation of young people as we are trying to be tough, and we have this carrot based on 197 juveniles who are in the Federal system, 197 juveniles.

If we take a look at the bill, your bill does not address what the communities need. Communities have come to us and said, give us flexibility. Let us work with our own communities. The problems in northern Michigan are much different than the problems in Florida or L.A. or Boston. They need flexibility. They do not need more Federal mandates.

Mr. Chairman, I will submit the letter the National Conference of State Legislatures addressed to Members of Congress in opposition to H.R. 3.

Mr. Chairman, I include for the RECORD the letter from which I quoted:

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, DC, May 7, 1997.

DEAR MEMBER OF CONGRESS: We are writing to express our opposition to mandates in H.R. 3, the Juvenile Crime Control Act of 1997. Mandates in existing law require that states deinstitutionalize status offenders, remove juveniles from jails and lock-ups, and separate juvenile delinquents from adult offenders. Under H.R. 3, the federal government would apply new rules nationwide relating to juvenile records, judicial discretion and parental and juvenile responsibility. These present new obstacles for states that need federal funds.

States are enacting many laws that attack the problem of violent juvenile crime comprehensively. Many have lowered the age at which juveniles may be charged as adults for violent crimes; others have considered expanding prosecutors' discretion. Without clear proof that one choice is more effective than the other, Congress would deny funding for juvenile justice to states where just one element in the state's comprehensive approach to juvenile justice differs from the federal mandate.

The change of directions ought to make Congress wary of inflexible mandates. For example, until federal law was changed in 1994 states were forbidden to detain juveniles for possession of a gun—because possession was a "status" offense. The federal response was not merely to allow states to detain

children for possession, but to create a new federal offense of juvenile possession of a handgun. (Pub. L. 103–322, Sec. 11201). The advantage of states as laboratories is that their choices put the nation less at risk. This bill would make the nation the laboratory.

NCSL submits that the proposed mandates, however well-intentioned, are short-sighted and counter-productive. We urge you to strike the mandates from H.R. 3.

Sincerely,

WILLIAM T. POUND,
Executive Director.

Mr. McCOLLUM. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, in response to what the gentleman has just said, I am sure there are some legislatures and maybe the whole council, as he has said, who do not want to see this passed because they do not like anything that we put out there in the way of a carrot, if you will, or an incentive in a grant program. They did not even like the prison grant program we put out a couple years ago. I do not know if there are many Federal programs that go out there without anything attached to them saying they have to do something to qualify to get the money.

The truth of the matter is, we held 6 regional crime forums in the last two years, the Subcommittee on Crime, around the country where we invited every State's attorney general to help us get together juvenile judges and probation officers and people who worked in the juvenile justice system to hear what the problems were, to understand what was really wrong out there. And they all said to us, there is a crisis, there is a problem. It is beyond the scope of what we can do here at home. We are not getting the legislatures of the States to respond to us. We do not have anybody lobbying for us. Please help us.

Mr. Chairman, I yield 5 minutes and 15 seconds to the gentleman from Arkansas [Mr. HUTCHINSON], a member of the subcommittee.

Mr. HUTCHINSON. Mr. Chairman, I rise in strong support of H.R. 3, the Juvenile Crime Control Act of 1997. As a former Federal prosecutor and, more importantly, as a parent of a teenager, I want to express my thanks to the gentleman from Florida, the chairman of the Subcommittee on Crime, for his important work on this issue.

I have to be honest, Mr. Chairman, that I had some reservations about this bill in the beginning, but I read the bill, I studied the bill. And after hearing the testimony in committee and the concerns of law enforcement and the statements of professionals who deal with the juvenile issues, I am convinced that this bill will improve, first of all, our Federal system of handling juveniles and, secondly, it will encourage the States to enforce accountability in their dealings with juvenile crimes.

Before I get into the substance of the bill I want to take a moment and congratulate our States and localities and our cities on the work that they are doing on this important issue. A number of State legislatures have recognized a growing threat of juvenile crime and have taken swift action to crack down on the serious offenders.

However, there is still work to do and there are many jurisdictions that have not taken that action. This bill sets out a model program for States to follow, and this is important, if they so choose. Contrary to what some reports have indicated and what some have said, nothing in this bill imposes mandates on the States. Participation in the block grant program is entirely voluntary and changes in the law only apply to the Federal courts. It is not an unfunded mandate by any means.

The bill itself provides a great deal of flexibility to the States as they set about to reform juvenile crime procedures. The block grant provisions provide significant resources to the States and localities to fight juvenile crime.

Just this day I received a request from the prosecuting attorney of Washington County, Fayetteville, AR who is a Democrat-elected prosecuting attorney. He says that juvenile crimes are on the upswing in this country and funds are badly need to assist our juvenile deputy prosecutors and to fund programs that attempt to stop juvenile crime before it occurs, and he asks support for this bill.

So it is important for the States that they have this flexibility, that they have the opportunity for these funds.

The block grant is to be used for a wide variety of purposes, leaving discretion at the local level who are on the front lines. What works in New York City may not work in northwest Arkansas. Law enforcement officials in each locality must have the discretion and the latitude to design their own crime-fighting plan, and this bill allows that flexibility to exist.

I did have a couple of concerns on the bill that were addressed very clearly in the committee, and the chairman was very cooperative in addressing my concerns. One was on the issue of juvenile records. Under the original bill, juveniles who were adjudicated as delinquents would have their records made public in the same manner as adults. This was amended during the committee process, very importantly, so that now a first-time offender, a one-time offender will maintain those records as confidential as a juvenile delinquent.

But repeat offenders are a different story. The second time around as a juvenile delinquent, their records will become available for public scrutiny, and I do believe this is an important change. In Arkansas we will have to change the law to a certain extent, but I believe it is a positive change.

The second concern centered on the criteria the States must meet for the block grant programs. One of the benchmarks of the block grants would be that the States would have to assure that juveniles age 15 and older are treated as adults if they commit, not any crime, but a serious violent crime, and also that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults.

Again, my reading of the bill, and I have talked to the chairman of the Subcommittee on Crime about this, is that in Arkansas there would be no need for change in legislation because the prosecutor has the discretion whether to file charges as an adult or as a juvenile. The court does have an opportunity to review that decision if a proper motion is made, but the prosecutor has the initial discretion whether or not to file charges in a serious violent crime case.

So I think those changes made the bill better. I think it is a very good bill. It gives flexibility to the States and it allows the States to adopt programs with funds available for them that will really meet the needs of juvenile crime, as was indicated by the Democrat prosecutor from Washington County who asked me to support this today.

Mr. Chairman, I believe that this is a good bill. In closing, let me emphasize that the prosecution of juveniles as adults under this bill is reserved for only the most heinous offenders, commission of serious violent crimes and serious drug offenses. They must carry appropriate punishment. This legislation goes a long way toward fixing a system that fails to hold juveniles accountable for their actions. I am very pleased to support it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 15 seconds to say that it is clear 38 States will not be able to participate under this legislation. Thirty-eight States with millions of children will be deprived of having the opportunity to prevent juvenile crime and rehabilitate our children.

Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island [Mr. KENNEDY], who has had a constant interest in the area of juvenile law and juvenile crime.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentlewoman from Texas for yielding me the time. I would like to also add from the outset that my State is among those 38 States that cannot even begin to access any of the funds under this bill. I might add it just shows how this bill is not a serious bill, because if it was serious in trying to change the effect of juvenile crime, it would certainly address the fact that it ignores 38 States of these United States from having access to the funds in this bill to do the kinds of things that our States feel make a difference in reducing crime.

□ 2115

I just want to make one statement, a simple statement about this bill, and

that is it does nothing, nothing to solve the problems that we are facing in juvenile crime and, in fact, it makes the problems worse.

The facts show that we have a problem here. The facts show that kids sentenced to adult facilities have a higher recidivism rate than those sentenced to juvenile detention centers. Guess what this bill wants to do? It wants to send more of them to adult facilities. In essence, this bill is ignoring the facts.

Second, the facts are that these kids will face shorter sentences. Because as I said earlier, judges, when faced with a teenager versus a hardened criminal, guess what the judge is going to do? They will not give them nearly the sentence they would otherwise get in the juvenile court. Guess what this bill does? Ignores the facts and sends the kids to adult jails where they will not be given the harsh sentences where those kids might need it.

Third fact. These kids, if they are sent to the adult facilities, and as I said the sentences are shorter, they will come out meaner than we ever could have imagined them ever ending up if we had sent them to a juvenile center. And anybody listening to this program tonight on C-SPAN will understand me when I tell them that sending teenagers to adult correctional systems as the means to reduce recidivism, when we know the recidivism rates are higher amongst kids that go to the adult correction systems, give me a break.

I want to add one more thing. It is scandalous. I say it is scandalous that we have minorities, African-Americans, that constitute 15 percent of our population, and guess what? They constitute 72 percent, I say to the gentleman from Florida, 72 percent in our juvenile system. What does the gentleman's bill do about that?

We passed a law in this Congress in the early seventies that dealt with it. It was called the Office of Juvenile Justice and Delinquency Prevention. And one of the mandates of that legislation was to say this country ought to address the problem that 15 percent of our population is being incarcerated at the rate of 72 percent. It is scandalous. It is scandalous. And the gentleman's bill does nothing, I repeat, nothing, but exacerbate that problem.

This Congress, with statistics like that, should turn the other way and think again before we adopt a bill that, as I said, ignores these fundamental facts.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. McCARTHY], who has firsthand knowledge on some of these very vital issues.

Mrs. McCARTHY of New York. Mr. Chairman, I rise in opposition to H.R. 3. This juvenile justice debate is personal and emotional to me because it is a debate about saving lives.

As I visit schools in my district in New York and talk to the kids in grade school, middle school and high school, I hear firsthand that they are sick of living in fear of violence.

In order to reduce violence and save lives we have to effectively attack juvenile criminals. H.R. 3 does not effectively address basic juvenile crime issues. Rather, the bill before us tonight is a collection of overly prescriptive, top-down, Washington-knows-best mandates.

Furthermore, the legislation completely fails to address the gun issues, and we cannot seriously discuss juvenile crime without the gun epidemic facing this country.

In order to save lives we have to allow our States and local governments to utilize programs that they know work best. This bill will not even let New York take advantage of the money that we need. This legislation ties the hands of local judges and prosecutors. If our State and local governments want to access badly needed Federal funds, they must submit to certain requirements in this bill.

Unfortunately, statistics show that the prescriptions that we are forcing down our local governments' throats may not be the best option for local crime problems. In fact, recent success in local communities such as Boston may not even qualify for Federal funding under this bill.

Under this bill, Congress is saying, We will take your tax dollars but you cannot take them back. It does not matter if you have already committed to saving kids' lives by getting tough on juvenile crime, you have to do what we say or else you will not get your hard-earned tax money back. That is wrong.

There is another important personal issue for me that has been completely left out of this bill. We have taken a pass on the high priority issue of reducing gun violence. The sponsor of this bill states that we can wait for a while and deal with this issue later. I rise to say that we cannot wait. Juvenile justice is about saving lives, and I support certainly not this bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will inquire again on the time, please.

The CHAIRMAN. The gentlewoman from Texas [Ms. JACKSON-LEE] has 9¼ minutes remaining, and the gentleman from Florida [Mr. McCOLLUM] has 7¾ minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. TURNER].

Mr. TURNER. Mr. Chairman, I came to Congress after having served in the Texas Senate where last session we passed what I believed to be one of the toughest juvenile justice reforms in the Nation. Now I come to Congress and find that this Congress, in H.R. 3, is going to tell the State of Texas that our tough juvenile justice bill is not good enough, not good enough to qualify for the Federal funds that we want to provide.

The legislatures in the 50 States do not need the Congress telling them how to run the juvenile justice system. We have a letter that we received today from the National Conference of State Legislatures opposing the mandates of H.R. 3.

In Texas we have gotten tough on crime and we have also recognized that we must invest in prevention of juvenile crime. We must begin the process of investing in early childhood intervention, in supporting our families and our communities, and being sure we attack the root causes of crime, and being sure that our Nation invests in our children.

This is the role that the Federal Government can fulfill. We need to keep our kids off of drugs. We need to keep our streets safe. We need to give our children the kind of training that they need in early childhood. This is where $1.5 billion in Federal funds needs to be spent, not on telling our States that they are not tough enough on crime.

In Texas our Republican governor and our Democratic legislature passed tough juvenile justice laws. We do not need the Congress to tell them it was not good enough.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I want to thank the gentleman from Florida for his leadership on this bill and to make some points that I think are relevant as to why it should be supported.

First, under H.R. 3, prosecutors will have discretion in every case. It allows prosecutors in every instance, Mr. Chairman, to either refer juvenile offenders to State authorities, prosecute the offender as a juvenile, or proceed against the offender as an adult only in the case of murder and other serious violent felonies.

It also should be pointed out that H.R. 3 finds that we will make sure that juveniles will not be housed with adults. H.R. 3 expressly prohibits housing juveniles with adults.

Furthermore, under H.R. 3 we have prevention plus. Look at it this way, Mr. Chairman, accountability is prevention. As a former assistant DA from Pennsylvania, I can tell my colleagues that when youthful offenders come to our courts and face consequences for their wrongdoing, criminal careers stop before they start. H.R. 3 encourages States to provide a sanction for every act of wrongdoing, starting with the first offense and increasing in severity with each subsequent offense, which is the best method, I submit, for directing youngsters away from a path of crime while they still are amenable to such encouragements.

Moreover, this bill is only part of a larger effort to combat juvenile crime. The prevention funding in the administration's juvenile crime bill falls under the jurisdiction of the Committee on Education and the Workforce. That committee will be bringing forth a juvenile crime prevention bill in the next several weeks. In addition, that will be a significant part of more than $4 billion which will be spent by the Federal Government this year on at-risk and delinquent youths.

The programs we are talking about include 21 gang intervention programs, 35 community policing and crime prevention mentoring programs, 42 job training assistance programs, 47 counseling programs, 44 self-sufficiency programs, and 53 substance abuse intervention programs.

Under H.R. 3, local governments will have flexibility. State and local governments will be able to have funds to be used for a wide variety of juvenile crime fighting activities, ranging from building and expanding juvenile detention facilities, and establishing drug courts and hiring prosecutors to establish accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies.

Mr. Chairman, I ask my colleagues to support H.R. 3.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SANDLIN], a former trial judge in the great State of Texas that had juvenile law jurisdiction.

Mr. SANDLIN. Mr. Chairman, today in this greatest of all countries we obviously face a problem, a problem of juvenile crime.

I rise as the father of four children, a youth baseball, basketball, softball coach, a former judge, a former chairman of a juvenile committee in Texas. Based upon that experience, I am convinced of one thing. Our focus in this Congress and in this country should be on one thing. We have kids with problems. We do not have problem kids.

If we send our children to school hungry, needing medical care, with no hope for a quality education, they will not succeed. We cannot expect them to succeed, and neither would we succeed under those same circumstances.

As a former judge, I have heard thousands of juvenile cases. Thousands. I agree that we need to teach children and juveniles to be responsible. Some children absolutely must be incarcerated. But if we think that by merely incarcerating children that we are going to solve these problems, we are wrong. If we think it will serve as a deterrent, we are fooling ourselves.

I will tell my colleagues one thing I learned as a judge. Children are fearless. They are fearless. They make no connection like adults do between the commission and what happens.

I have heard a lot of talk tonight about there is nothing that happens on the first offense or second offense. I do not know about anywhere else, but in Texas that is not so. That is absolutely not so.

Treating children as adults and spending more and more and more tax dollars to prosecute children and locking them up without addressing the problems that are underlying those juvenile problems is just false investment and it simply will not work. If we are committed to solving the juvenile problem in this country, we need to sponsor legislation that creates jobs, that puts families first, that sponsors education, that supports intervention.

Do we need to be tough on crime? We sure do. I have compared H.R. 3 and the Democratic substitute. I have noticed the Democratic substitute, the Juvenile Offender Control and Prevention Act, extends the age at which juveniles may be incarcerated, expands the use of Federal juvenile records and funds police officers, but it is balanced in a way that H.R. 3 is not.

These are local problems, these are local programs funded by local families. We do not need a Washington mandate to tell Texans what to do about Texas problems. It will not work.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. PASCRELL], a very strong advocate of this issue and a member of the task force.

Mr. PASCRELL. Mr. Chairman, I thank the gentlewoman for yielding me this time. I rise in strong opposition to H.R. 3 and in support of the Democratic substitute.

We in Government have no higher responsibility to those we serve than to provide for the protection and to do all within our power to make our streets and neighborhoods safe.

□ 2130

We owe it to our constituents to confront the issues of crime head-on, not just chest pounding and tough talk. That is why I rise today in support of the Democratic substitute to the juvenile justice bill. Our substitute represents the only real balanced approach to solving the problem of youth violence. In contrast to our balanced approach, the bill of the gentleman from Florida [Mr. MCCOLLUM] takes the most extreme approach to juvenile justice reform and is filled with tough-sounding provisions which have never been proven to reduce violent crime.

The bill of the gentleman from Florida [Mr. MCCOLLUM] provides absolutely no funding for initiatives that focus on preventing crimes before they occur because 98 percent of young people in this country do the right thing. Those are the kids we should be supporting and worried about. I have had to deal with youth violence on a day-to-day basis. I understand the fight that we are facing. In Paterson, NJ, we were able to reduce crime 36 percent in 6 years. We did not achieve this reduction by tough talk and posturing. We had the folks on the streets to work with the folks that walk the streets, the brothers and sisters in blue. We achieved it by taking real steps, implementing real prevention and community policing initiatives.

After I was elected, I formed a public safety advisory committee composed of police officers, prosecutors, judicial officials and others who have had great success in crime fighting, Mr. Chairman. I charged them with the task of reviewing our current juvenile justice system. An interesting thing happened last week. When I asked the committee to reconvene and share their opinions, to a person, every one of them acknowledged that there is a real need to be tough on these juveniles committing violent crimes. We should concentrate on how we prevent kids from ever becoming involved in crime in the first place.

They expressed the belief that we must concentrate on keeping young children from ever getting into crime. That is just what the Democratic substitute does. Our legislation cracks down on gangs and juvenile drug dealers and prescribes harsh graduated penalties for those convicted of crimes. We must recognize that only a very small handful of youths are convicted of crimes. In here, in a very specific article in Jersey, ordered to reduce the juvenile jail crowding in our State.

This is not how you fight crime. It is how you pound your chest and get people to think that you are doing something about it and you are not.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I just wanted to clarify something that the gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime, said. He said he had these conferences, hearings all around the country. I think he said he had six of them. I was at one of those hearings myself. The information I recall hearing was almost identical to what the gentleman from Texas [Mr. SANDLIN], the juvenile judge, who just ceased being a juvenile judge, said at that hearing.

I wanted to yield to the gentleman from Virginia [Mr. SCOTT]. He attended almost all of these hearings. My recollection is just different from our chairman's about what people were saying at these hearings. I wondered if the gentleman from Virginia [Mr. SCOTT] might tell us what his recollection of those hearings was.

Mr. SCOTT. Mr. Chairman, if the gentleman will yield, I would say that at some of those hearings, we found the

need to try some juveniles as adults, but the fact is that without any change in the law, most juveniles tried as adults today are tried as adults for nonviolent offenses. That is, we have gone all the way down the list of offenses, and they are already being tried as adults and they will not be affected by this legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. RIGGS], the distinguished chairman of the key subcommittee of the Committee on Education and the Workforce.

Mr. RIGGS. Mr. Chairman, I am pleased to join the debate. All I have to tell my colleagues is that this debate feels a little bit like deja vu all over again, to quote Yogi Berra. Unfortunately when we debate crime-related issues in the House, we seem to get into the yin and yang of Republican politics and we seem to promote this notion that punishment and prevention are mutually exclusive.

I actually despair listening to the debate that sometimes I think there are those Republicans, my Republican colleagues, who would be inclined obviously to vote for a punishment bill but against a prevention bill, and perhaps it is the other way around on this side of the aisle with some of our Democratic colleagues who might be more inclined to vote for a prevention bill but have real reservations, some of which we have heard tonight and for very legitimate reasons, about a punishment bill.

Be that as it may, I am very pleased to tell my colleagues that I am happy to be teaming up with the gentleman from Florida [Mr. MCCOLLUM], the chairman. We want an approach that is tough on punishment but smart on prevention.

A few weeks ago we were out in southern California, we heard from the police chief there in Westminster and Orange County, CA, Jim Cook, who is running a model program that is targeted on gang suppression. He told us: Look, before you can even talk about prevention, you have got to get the worst of the worst, the bad actors, if you will, off the streets.

Another person used this analogy of a running bathtub, that you could pull the plug but of course the bathtub would not drain unless you turned off the faucet. That is of course where prevention comes into play. It is just really critically important.

So while I support the notion of graduated sanctions, realize that by conditioning Federal grant funding to the States on graduated sanctions, that creates an even greater strain on the juvenile justice system infrastructure and, hopefully, obviously we can be part of the solution there in providing more funding for juvenile justice housing and then for the whole, all of the services in the juvenile justice system from police, to probation, to the courts, more prosecutors and defenders.

While we want to do all of that, we again have to take a prevention approach. I agree with my colleague on a bipartisan basis, speaking as another former street cop who worked the streets for 8 years that we are not going to arrest our way out of this problem. Therefore, we are hard at work in our Subcommittee on Children, Youth and Families on a juvenile justice and delinquency prevention bill. We hope that we can bring it to the floor actually about the same time as we bring the vocational education bill which will also be targeted at young people who are at risk of dropping out or at risk of coming into contact with the juvenile justice system, the great majority of our young people, by the way, who are not college bound or who, if they go to college, will not complete college.

I really do believe we can bring a good bill out here on prevention that will take an interagency and multidisciplinary approach that will require the schools, the police, the prosecutors, probation and community-based organizations to work together to design the right crime-fighting and delinquency prevention strategies for their communities that we can hopefully drive the resources locally to encourage flexibility and innovation.

Again I ask Members to be aware as we conclude general debate tonight and approach debate on amendments and obviously votes leading up to final passage tomorrow that the gentleman from Florida [Mr. MCCOLLUM], the chairman, again and I are very, very committed to taking a cooperative approach. I personally want to make it a bipartisan one, as I think the gentleman from Virginia [Mr. SCOTT] would attest, since we have been in discussions over a period now of several weeks and hope ultimately that through our combined efforts we can show our constituents, and show the country that we are serious about cracking down on juvenile crime but we recognize ultimately prevention is the answer.

We have got to focus more time, more resources on those young people who are at risk of coming into contact with the juvenile justice system or who, if they are in the juvenile justice system, can through intensive services hopefully be diverted out of the juvenile justice system before they graduate to adult crimes and adult prisons.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I wish I could come to this well and simply say that we had reached an accommodation. I think what we have really reached is that this bill should be pulled and we should join the gentleman from California [Mr. RIGGS] with the prevention bill that he is now proposing, simply because that is the emphasis that we should have.

Statistics already show in the State of the gentleman from Florida [Mr. MCCOLLUM] that those juveniles housed in those adult facilities, the recidivism rate is higher than any other group of juveniles. In this bill we have no protection for juveniles who might be raped. We have no language that protects juveniles from the abuse that occurs when housing them with adults. In this bill only 12 States might qualify.

In this bill, if 23 other States increase their penalties, they still would not qualify. In this bill, the block grant moneys can be used for prison construction but they cannot be used for money for prevention.

This bill is not supported by the administration. This bill does not allow for judicial review, some sensitivity and discretion to decide whether juveniles should be transferred to the adult court. We, too, want to be not soft on crime, we want to prevent crime, but we realize with juveniles there is value, as the Concerned Alliance of Men said, to giving them a hug.

I think this bill is misdirected, wrongheaded, going in the wrong direction. When we ask the question simply, what would I want to happen to my own child, when we ask that question, then we have the answer. This not H.R. 3.

What we are doing to the children of America is not rehabilitating them. What we are doing to the American people is simply saying that Washington knows best. When we do the right thing, unless it is as hard, harsh and detrimental as we want in Washington, we will not do it and allow them to have the discretion to do the right thing in their States. This bill does not respond to the needs of Americans and certainly it says take the $64,000 and lock them up rather than the $4,000 to prevent crime and give them an early head start.

Mr. Chairman, I would ask that we support the Democratic substitute and that we do the right thing on behalf of our juveniles in this country and embrace them and save them and prevent crime.

Mr. MCCOLLUM. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Florida is recognized for 1¾ minutes.

Mr. MCCOLLUM. Mr. Chairman, I would like my colleagues to understand what I do, I think, about all of this debate tonight and, that is, that most kids are good kids, and nobody is going to dispute that. Most Americans do not commit crimes. In fact, as the gentleman from California [Mr. RIGGS] said earlier, we want to get at those and prevent crimes as much as possible. There is a bill coming out that

will work on that from his committee very shortly.

We also have a lot of other programs as we mentioned by the gentleman from Pennsylvania [Mr. FOX] directed at prevention. This does not mean, though, that we should not have an improvement in the juvenile justice system of this Nation that is broken and is not working for those who do commit crimes, and if they are the most heinous of crimes, the murderers, the rapes, the robberies that unfortunately some who are slightly under 18 do commit, and the most egregious of all crimes some of these kids who are frankly quite a bit older in this regard than they act in some of the movies, I think those kids ought to be taken up and locked up and treated as adults. Yes, there is a high recidivism rate among those kids who commit these kind of crime. It is going to be because they are the worst of the worst and they are going to be hardest to rehabilitate. They are the ones we are probably not going to rehabilitate. But the truth is we need to correct the juvenile justice system not so much for those kids, though we need to lock those up or encourage the States to do that. We need to get at the kids in the juvenile justice system just like the prevention programs the gentleman from California [Mr. RIGGS] is going to bring out who have not yet quite gotten there, who have committed the less serious offenses, the vandalization of homes, the spray painting of buildings, and so forth, and have sanctions imposed on those kids so they will understand there are consequences to their misbehavior. I am convinced from listening to experts all over this country that kids who understand there are consequences when they really are in the system do not commit a lot of other acts they otherwise would. We will have far fewer juvenile criminals in the system if we put consequences of sanctions on minor offenses back into the system again. That is what this bill does. It repairs the juvenile justice system with an incentive grant program.

We need to pass H.R. 3 tomorrow. I encourage my colleagues to do it for that reason.

Mr. CONYERS. Mr. Chairman, given the growing concern of American citizens over the juvenile crime problem, we need to carefully examine this issue and its root causes and look for ways not just to punish juvenile offenders, but for ways in which we can prevent children from becoming criminals in the first place.

Some of my colleagues believe that the very least we must do to address our juvenile crime problem is to lock up violent juveniles. I have no argument with incarcerating violent offenders, but to my mind, the very least we must do is to attempt to stop these kids before they become violent offenders. Locking up more and more kids is not the answer. We cannot afford it and eventually these kids will get out.

And what will happen when they do get out? We will have a group of young adults who have spent many of their formative years in jail. What can we logically expect them to have learned there except for how to be better and more dangerous criminals?

Yet now, in the current political climate where no penalty is ever considered too severe, many of my colleagues want to treat kids as adults and lock them up for longer and longer periods—even though study after study has shown that this approach is totally ineffective.

Traditionally, juvenile court judges have given juveniles longer sentences than the judges in adult courts. The worst offenders at the juvenile level may often appear quite tame compared to what the criminal courts see every day.

Anyway, all of the talk about treating younger and younger offenders as adults misses the point. It is too little too late.

We need to deal with kids before they become violent offenders, not after. The Rand Corporation—hardly a bastion of liberalism—has recently issued a report demonstrating that crime prevention efforts aimed at disadvantaged kids are more effective than tough prison terms in keeping our citizenry safe. Since this study doesn't play that well politically, I guess we are just going to ignore it.

As adults, we need to take more responsibility for our country's juvenile crime problem. Children are not born criminals, we make them into criminals either through our neglect or our mistreatment or a lack of economic opportunities.

We are treating juveniles more harshly at the same time as we are spending less on their education, less on after-school and development programs, and less on child protective services.

We are also allowing our children to be exposed to more and more violence, not only on television, at the movies and in popular music, but in the streets, at school, and even in their own homes. A significant majority also refuses to stand up to the National Rifle Association and acknowledge the danger guns pose to our youth, despite the large number of teenagers (not to mention adults) killed by gun violence every year.

In fact, at the juvenile crime meetings Chairman MCCOLLUM convened around the country last Congress, without fail at every one of those meetings—in Philadelphia, in Atlanta, in Boston, in Chicago, in Dallas, and in San Francisco—local officials have noted the problem of juveniles and guns and urged Federal action on this front. Yet Mr. MCCOLLUM's bill does absolutely nothing to limit juvenile access to handguns. I guess the Republicans are only interested in addressing juvenile crime in ways that pass NRA scrutiny.

Although the 1994 crime bill authorized funding for numerous prevention programs, since the Republicans gained the majority, none of that money has been appropriated. Therefore, it cannot be argued that prevention has failed. We haven't even begun to try prevention programs. Before we lose an entire generation to the criminal justice system, we have an obligation to make every effort to assist children in making the right choices and to offer them meaningful alternatives to crime.

As with guns, at Chairman MCCOLLUM's juvenile crime meetings around the country, local officials stressed the importance of prevention programs and Mr. MCCOLLUM professed to agree that prevention programs are a necessary part of the effort to stem crime. Yet the bill we consider here today offers little in the way of prevention.

The lock 'em up approach taken by H.R. 3 will do little if anything to stem the rising tide of juvenile crime with which the majority professes to be so concerned. Once again, we are trying to fool the American public into thinking we are doing something about crime when we are actually only politicizing crime. If this bill becomes law and the juvenile crime rate fails to decrease, we will have only ourselves to blame for the further public disillusionment and cynicism about politics as well as for the escalating juvenile crime problem.

The CHAIRMAN. All time for general debate has expired.

Mr. MCCOLLUM. 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. GILCHREST] having assumed the chair, Mr. KINGSTON, 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. 3) to combat violent youth crime and increase accountability for juvenile criminal offenses, had come to no resolution thereon.

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3.

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

There was no objection.

EXTENDING ORDER OF THE HOUSE OF APRIL 23, 1997 THROUGH JUNE 12, 1997

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the order of the House of April 23, 1997, be extended through Thursday, June 12, 1997.

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

There was no objection.

□ 2145

APPOINTMENT TO ADVISORY COMMITTEE ON THE RECORDS OF CONGRESS

The SPEAKER pro tempore (Mr. SUNUNU) laid before the House the following communication from the Honorable RICHARD A. GEPHARDT, a democratic leader of the House of Representatives:

CONGRESS OF THE UNITED STATES,
OFFICE OF THE DEMOCRATIC LEADER
Washington, DC, May 7, 1997.

Hon. NEWT GINGRICH,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 2702 of 44 U.S.C., as amended by Public Law 101–509, I hereby appoint the following individual to the Advisory Committee on the Records of Congress: Dr. Joseph Cooper of Baltimore, MD.

Yours very truly,

RICHARD GEPHARDT.

APPOINTMENT AS MEMBERS TO THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of Section 3(a) of Public Law 86–380, the Chair announces the Speaker's appointment of the following Members of the House to the Advisory Commission on Intergovernmental Relations:

Mr. SHAYS of Connecticut and

Mr. SNOWBARGER of Kansas.

There was no objection.

APPOINTMENT AS MEMBER TO THE CONGRESSIONAL AWARD BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of Section 4 of the Congressional Award Act (2 U.S.C. 803), the Chair announces the Speaker's appointment of the following Member of the House to the Congressional Award Board:

Mrs. CUBIN of Wyoming.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN COMMEMORATION OF TAX FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire [Mr. SUNUNU] is recognized for 5 minutes.

Mr. SUNUNU. Mr. Speaker, I rise this evening in commemoration of Tax Freedom Day, which this year falls on May 9. Tax Freedom Day is that day that Americans work to simply to pay their taxes and obligations to their State, Federal and local governments.

Tax Freedom Day is a symbol of the burden that we put on American families all across this country. Over 35 percent of our country's national product, what we produce every year is absorbed in taxes by our State, Federal and local governments. This is more than the average family pays in food, shelter, and clothing combined. Those essentials that they need for their daily existence, they pay more in taxes every year.

Mr. Speaker, this burden consumes more and more of our economy every year, and it makes it difficult for families to get by. Where they used to be able to exist and enjoy a good quality of life with a single wage earner, today the typical family is more often required to have two wage earners, and that is just not fair. It is the burden that our tax system places on that hard-working family.

Second, taxes represent not just a burden but a price, a price that we pay on everything in our economy. It is a price that we pay on productive work, it is a price that we pay on savings and investment, it is a price that we pay on job creation. And as most people would agree, when we raise the price on anything we get less of it, but if we lower the price on those things we get more. If we lowered the price with lower taxes, we get more productivity, more savings, and more job creation, and similarly with the high tax burden that we face today, as one would expect, we get lower productivity, lower rates of savings and lower rates of job creation.

Third, the high Federal tax burden that we put on our working families keeps control centralized here in Washington. Money, particularly in the form of taxes, is power, and if we put all the money and all the tax revenues here in Washington, control them from here in Washington, it becomes a place of power, as one would expect. But if we can take the money out of Washington and put it back in the pockets of working Americans, we make Washington less important, and we make the family, the individual in a city or town more important.

And I think fundamentally that is the direction we should be headed in. This is, after all, your money that we are talking about. When we speak about government revenues or tax revenues, we are talking about the hard-earned dollars that we collect here in Washington, that we take from the individual or the working family or the business and then we distribute. We should never forget what the source of that income is.

So when we talk of lowering taxes and when we talk of Tax Freedom Day and the need to move that day back so we work less time to pay our taxes, remember we are talking about reducing the burden on families, reducing the price that we pay for economic growth and reducing the concentration of power here in Washington and giving more freedom and more responsibility back to our city or town.

This past week Congress and the President came to an agreement to try to do something about the tax burden Americans face, and our balanced budget plan balances our Nation's books for the first time in 30 years, provides tax relief that will make a difference for the average working family and begin to lift these burdens. A $500 per child tax credit that we hope to enact later in this year will put money back in the pockets of a typical working family. We certainly hope to enact the State tax reform and capital gains tax reform that will stop the burden on small and family-owned businesses. What can be more discouraging to someone thinking about starting a business than to know if they are successful, if they achieve their goals, then the capital gains tax rate they will have to pay will be as high as 28 or 30 percent, and even worse, if they want to leave that business in their family, they can pay a death tax as high as 55 percent.

And this is not just a tax burden that effects business owners, or small or family business owner. It effects every employee that works for that business and even the customers that buy the product from a small business. It effects every facet of our economy, in small and family businesses, or where most of the job creation take place.

By putting money back in the pockets of working Americans this budget plan that we have come to an agreement on this past week will give more power and control, more freedom and opportunity to the average American.

Still we cannot lose sight of the long-term goal with regard to trying to move back that Tax Freedom Day, and that long-term goal is fundamental reform of our tax system, dramatic reform of the Tax Code to make it simple and fair. There is nothing more unfair than to have working Americans labor under the belief that someone with more money or, better, a tax accountant, than they can somehow avoid paying their fair share of taxes.

By moving forward in the end of this session and next session with fundamental tax reform, we will continue the fight to put freedom and responsibility back in the hands of the average American.

COMMEMORATING TAX FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SHIMKUS] is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, I rise today to congratulate the Republican leadership, the President, and the Democratic leadership on coming together to balance the Federal budget and also to commemorate Tax Freedom Day for all taxpaying Americans.

Mr. Speaker, before being elected to represent the 20th district of Illinois, I spent 6 years as the Madison County treasurer. After inheriting an office of 30 employees from the previous treasurer, I reduced the office staff to 20, automated the office, and returned a

$20,000 pay raise to the people of Madison County.

This was not easy for me or my family to do, but I felt the sacrifice was necessary to begin streamlining what I thought was a bureaucratic office, while providing better, more efficient service, and saving the hard-earned money of the taxpayers of Madison County. However, this kind of sacrifice is not uncommon in Madison County or America.

Mr. Speaker, every year millions of taxpaying Americans must tighten their belts to make the car payment, pay off the mortgage on their homes, feed their children, and pay their taxes. However, we should endeavor to change our budget and tax codes so that Americans might better provide for their family, instead of working over 5 months of the year simply to pay taxes to the Government.

Because of the recent balanced budget agreement made by our Nation's leaders, almost every taxpayer will better be able to provide for their family without worrying about an ever increasing debt to be handed to our children.

Mr. Speaker, if we continue to spend at our current rates and if we continue to let our deficit balloon, our children and my children will inherit a debt from which they may never recover. If they are not in bed tonight, my sons are watching. To David, who is 4, and Joshua, who is 2, I say, I am working late tonight to secure your future. I love and miss you and will see you soon.

It is my hope that on Tax Freedom Day, May 9, 1997, we can celebrate the resurgence of a budget philosophy which we have not adopted since 1969, and that is to spend only as much as we take in, as does every American taxpayer. For the future of our country and for the future of our children, we must sacrifice and tighten our belts.

Mr. Speaker, as the Government, as a body, and as representatives of the people, we have an obligation to the American people to hold the line on taxes and wasteful Government spending. We have an obligation to work to move Tax Freedom Day to April 9, and then to March 9, and so on.

In conclusion, Mr. Speaker, the people of the 20th district and I want to again thank the Republican and Democratic leadership and the President for agreeing on a balanced budget plan. We thank them for confronting unnecessary tax burdens, making it easier for working families and the forgotten middle class to provide for their children and for working to ease the burden which rests on the shoulders of the American taxpayer.

The family farmers thank them for working for relief from the death tax. The small business owners, homeowners and entrepreneurs thank them for capital gains tax relief. The seniors thank them for saving Medicare, guaranteeing its solvency into the next century. Millions of children thank them for the $500 per child tax credit. All Americans, including future generations, thank them for planning to balance the budget by 2002.

TRIBUTE TO STEWART B. McKINNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, Stewart McKinney, my predecessor, a member of this House and our friend, died 10 years ago today.

On that day 10 years ago, many of his colleagues came to this Chamber to mark the moment and express their grief, their admiration, their condolences, their remembrances. It was a deeply moving, impromptu tribute to a man whose life for me and the people of Connecticut's Fourth Congressional District continues to define the term "representative."

So I think it is fitting that the House pause once again, 10 years later, to reflect upon the life, the work, and the spirit of Stewart B. McKinney, a Representative.

A generosity of spirit marked all he did. He gave.

A man of virtually boundless affability, he gave his warmth and courtesy to clerks, elevator operators, and Capitol police as readily as to his House colleagues, Cabinet Secretaries and Presidents.

A man of considerable means, he gave the use of his cars and his houses to staff and friends.

A man of keen intellect and insight, he gave his tenure here not to the cause of self-advancement but to the causes of public housing, homelessness, and outcast Amerasian children.

□ 2200

A self-avowed urbanist from a strongly suburban district, Stewart McKinney gave life to what others only preach about: urban revitalization. He stayed on the Committee on Banking and Financial Services when others moved on to the Committee on Commerce, the Committee on Ways and Means, or the Committee on Appropriations, because he wanted to improve public housing and economic development.

Without regard to party positions, he helped draft and enact the law to save New York City from financial default. He stayed on the District of Columbia Committee when many advised him to move on to more powerful assignments, because he believed in cities. He believed the solution to D.C.'s problems contained the answers to Bridgeport's and Norwalk's and Stamford's—cities he represented in the 4th Congressional District.

In doing so, he represented his constituents while giving a voice and a vote to those who live in view of this building, but have no voting representation in this Chamber.

In the end, he gave what he no longer had, the physical strength to spend the night outside on a subway grate to demonstrate the plight of homeless people. His death from AIDS-related pneumonia came soon after.

Despite a background of wealth and privilege, he represented us because he remained one of us. I think he was as proud of dropping out of Princeton as he was of his degree from Yale.

If his wife, Lucie, did not beat him to it, he would be the first to tell you his family wealth was hers. In his hobbies of collecting convertibles and rebuilding houses, in his devotion to his family and staff, in the symbol of the Mickey Mouse telephone he used in his Cannon office, he maintained a healthy, well-grounded perspective on the triumphs and frustrations of daily life.

It is too commonly called the common touch, but there was nothing common about Stewart McKinney. Yet, throughout his 17 years in Congress, through Vietnam, Watergate, the energy crisis, and all of the other burning issues of his day, he was as comfortable in a VFW hall in Bridgeport as the country club in Greenwich.

Sometimes one group was more comfortable than the other to see him, but he had the ability to diffuse anger, soften opposition, and bring common sense to bear in uncommon circumstances.

He was at once an idealist and a realist, straddling that contradiction as cheerfully and as fearlessly as he faced being labeled a moderate or liberal Republican when it was not meant as a compliment by those in his own party.

He took his work seriously, but he never took himself too seriously, disdaining the pomposity and puffery of official Washington.

He represented all of us because of all that he was. In a floor speech after Stewart's death his 1970 classmate and former colleague, Bill Frenzel, said we ought not "to put wings on the dog," by glossing over all the things that made him so real to so many. He smoked too much. He could get frustrated and angry at the glacier pace of deliberative process. He hated missing so much of his children's lives. And I know he was frustrated to have been in the political minority all of his public life.

But in his weaknesses, frustrations, failures, and foibles, he represented the struggles and contradictions each of us faces everyday.

Stewart McKinney died of AIDS. His wife, Lucie, carries on his work as chairman of the Stewart B. McKinney Foundation, dedicated to providing housing to persons and families with

HIV disease. In this work, she daily transforms the cause of his death into the causes of his life: housing and care for those society might otherwise overlook.

Because he was here in this Chamber, our Nation is better, our horizon brighter, our represented democracy richer. Ten years after his death, he still represents to me and many others the compassion, the vision, the good humor, and the common sense to which we aspire as individuals, Representatives, and a Nation.

Stewart McKinney was truly a great Representative and it is a privilege to serve in the office that he once served.

Mrs. MORELLA. Mr. Speaker, I am pleased to join my colleague and good friend, Congressman SHAYS, in paying tribute to our former colleague, Congressman Stewart McKinney, who passed away 10 years ago today.

Stew McKinney was a very special man, who brought a keen intellect and sense of humor to this body. His commitment to the housing needs of this Nation, particularly the homeless, was unquestioned. In fact, his death was hastened by his insistence on spending a night on a grate near the Capitol in bitter cold in order to bring attention to the need for more funding for homeless shelters. Following his death, Congress approved legislation to authorize the McKinney Homeless Assistance Act, which has been a lifeline for the homeless.

Stew was a moderate Republican, and was active in the so-called "92 Group," the organization of moderate Republicans devoted to reaching a House majority in 1992. Stew would have been thrilled to have learned that his efforts helped lead to that outcome only 2 years later, and he would certainly have been an active force in the Tuesday Group, of which I am a member.

Stew's death from AIDS led to increased public awareness of HIV/AIDS and helped to bring the reality of the epidemic to Congress. At the time of his death, AIDS was still someone else's disease—his death was a wake-up call to Congress.

I only had a few months to get to know Stew—I had just begun my service in Congress in 1987. But during that brief time period, I had the privilege of working with him on several issues. He was an inspiration to me and to many Members, and he is missed.

Ms. DELAURO. Mr. Speaker, today, on the 10th anniversary of the death of Stewart McKinney, we marvel again at the indelible mark made by this incredible legislator and human being. Stew was a truly remarkable person, who cared deeply about other people and their lives. He was far above partisanship and division, working passionately on the issues to which he dedicated his life and which ultimately contributed to his death.

Stew was committed to solving problems which weren't high profile or trendy. He worked to secure safe housing for all Americans at a time when our Nation preferred to look the other way, and caught the pneumonia which led to his death while sleeping on a grate in the rain with homeless men and women to draw attention to their plight. He worked to preserve the salt marshes and natural habitats of the Long Island Sound, acknowledging their importance long before being "green" was popular. He inspired his family and friends to advocate for people with AIDS, the disease he contracted from a blood transfusion, at a time when most politicians, celebrities, and high-profile people of all walks of life chose not to become involved.

Stewart McKinney's life is memorialized in three refuges which bear his name: the Stewart B. McKinney Housing Act, the Stewart B. McKinney National Wildlife Refuge, and the McKinney Foundation, which provides emergency shelter to, and operates two residences for, people with AIDS. This week, as we debate the reauthorization of the housing programs about which Stew cared so deeply, may we all be blessed with the compassion, the foresight, and the commitment which he brought to the House floor.

Mr. TRAFICANT. Mr. Speaker, I would like to pay tribute to the memory of a former colleague, Stewart B. McKinney. Ten years ago we lost a well-respected and dedicated Member and today we hold this special order to pay tribute to his memory.

During his time in Congress, Mr. McKinney worked tirelessly for his constituents and for the causes in which he believed. His distinguished career was characterized by numerous triumphs, successes that made an impact on the lives of all Americans. While I did not have the opportunity to work very closely with Mr. McKinney, his reputation as an honest and admirable man always proceeded him. He will live forever in our hearts and in our memories for the work that he did and for the fine example that he set.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise today to commemorate the life of my dear friend and our former colleague, the late Stewart McKinney. Today is the tenth anniversary of his death.

It is hard to believe that so much time has passed. I still remember the night of his death, many of us gathered spontaneously, here on the House floor to find comfort in remembering him. But vivid as that memory is, my memories of Stew himself have even more life.

Let me say it plainly: Stew was always a man of principle. In every sense, he was a dedicated, thoughtful and earnest legislator, willing to take on the battles of those who are scarcely visible in this society. We remember his work for the homeless: I still carry with me an indelible image of Stew, spending a cold winter night outdoors to focus the public eye on what many had not wanted to see before. That was not a public relations ploy—it was a call to America's conscience. And I am very proud that Congress responded with passage of the Stewart McKinney Homelessness Assistance Act. Today, the fight he started continues.

Stewart McKinney also authored and passed legislation to create the Connecticut Coastal Wildlife Refuge, which has been renamed in his honor. This important legislation protected some of our most threatened wetlands along the Connecticut coast on Long Island Sound. And today, those of us in Connecticut and the Northeast can still continue to enjoy the beauty of these fragile but important areas—thanks to Stew.

Stew's compassion and dedication created a lasting legacy. But his most unique quality, in my opinion, was his love of all people. He was gifted in human understanding and compassionate in his words and in his actions. Stew demonstrated this remarkable ability here in Congress and back home in Connecticut, and I feel very lucky and privileged to have had the opportunity to serve with Stewart McKinney during my tenure in Congress. He was a great man and a great American.

Finally, let me thank Mr. SHAYS, for setting up this special order to honor the life and memory of his predecessor Stewart McKinney.

Mr. GILMAN. Mr. Speaker, I join in thanking our colleague the gentleman from Connecticut [Mr. SHAYS] for his consideration in reserving time for this tribute to our late colleague.

I remember Stew McKinney well, and find it hard to believe that 10 years have transpired since we lost him. Stew was an outstanding leader, a far-sighted legislator, and a gentleman in the truest sense of the word.

Stew McKinney is so well remembered today because so many of the causes he championed are causes which are still important to us today. He recognized the problem of homelessness long before we realized that this problem was touching virtually every community in the United States and much of the housing legislation which was subsequently enacted into law bears his indelible stamp. Stew McKinney was warning us all in this Chamber of the epidemic of AIDs long before it became fashionable to do so and long before the bulk of us realized that this health threat would touch all facets of our society.

As a Member representing a district in southeastern New York, I had the opportunity to work closely with Stew regarding the future of several raillines which cross the State border into Stew's Connecticut district. I was always impressed with Stew's attitude of "what is best for all the people" as opposed to the all too common attitude of "what is best for my own district" only.

The world has been a lesser place for 10 years due to the loss of Congressman Stewart McKinney. Let us all resolve to emulate his gentlemanly demeanor in all of our endeavors, and let us resolve to rededicate this Chamber to the standards of excellence which he established during his long, distinguished career in this Chamber.

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

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

There was no objection.

TAX FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAPPAS] is recognized for 5 minutes.

Mr. PAPPAS. Mr. Speaker, I rise today to discuss a very important day

that occurs annually and will occur this Friday. The day that I am referring to is Tax Freedom Day. This is the day in which the average American worker will finally stop working for Uncle Sam. This year Tax Freedom Day is May 9. That is 1 day later than last year; 1 more day that the American worker works for the Government.

For the first 128 days of this year, every day that people in America have gone to work, they have only been working for Government. That is just wrong. For those of us who live in New Jersey, Tax Freedom Day will come on May 11, again 1 day later than last year. While the day that we pay our taxes, April 15, never changes, the number of days that we must work to pay those taxes has increasingly grown later into the year.

In 1993, Tax Freedom Day was May 2, 122 days into the year. On average, the American worker will spend 2 hours and 49 minutes of each 8-hour workday to pay their taxes, both Federal and State. That is more than the same worker would spend on clothes, 20 minutes, and housing and household maintenance, 1 hour and 20 minutes, transportation, 34 minutes, health and medical costs, 59 minutes. Somehow, that just does not sound right, and it does not sound like we have our priorities straight.

Day after day we discuss and debate proposals to help improve the quality of life for America's families, but how can we expect families to save, to pay for a child's education, to buy health insurance or so many other things when government continues to take and take more and more each year. More than anything else, what we need to give back to the American people is their time and their money.

Just tonight, many of our colleagues spoke about the problem of juvenile crime, a very important issue for so many communities and families. How can we truly claim to live in a free society when the very freedom that we love to talk about is not available until May 9.

Since the early 1990's, Tax Freedom Day has grown later and later, and we must reverse this trend. This Congress has continued the discussion that was begun in the last Congress on giving families and individuals tax relief and balancing the budget. That discussion must continue to move forward, and we must act this year so that the next year Tax Freedom Day is earlier in the year and not later, as has been the case.

DEATH TAX SHOULD BE PUT TO DEATH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, I would like to speak this evening for a few moments about the death tax. That is a tax that the U.S. Government applies to many of us, will apply to many of us, the second your heart stops beating. It is a tax which will get to us quicker than the undertaker will get to us. It is a tax on success in our country. It is a tax against the average American family in our country. It is a tax that destroys families.

In our country, 70 percent of small business will not survive a second generation. In our country, 87 percent of small business will not survive a third generation. What is a big component of this failure for small business or family farms, and homes, to go from one generation to the next generation? What is that awful, heat-seeking missile? It is the death tax administered upon average Americans in this country by the U.S. Government.

Now let us take a look at the taxes that we have in this country. We have a Federal tax, we have a State tax, we have a local tax, we have a property tax, we have a sales tax, we have an airplane ticket tax, we have a heating fuel tax, we have tax after tax after tax. But that is not enough for a government that sometimes finds it too easy to become greedy to get money out of our wallets. They have to do one more strike at us, one more strike at our hard work, one more strike at our families' ability to try and pass something on to the next generation, and it is called the death tax.

Think about it. If you have somebody that thinks that they can justify when the Government comes in and taxes you, and by the way, this is money that you have already been taxed on for the most part, a government that comes in and taxes you on your death, if you have a friend or family that thinks they can justify it, sit down and visit with them. The next time you have coffee in the morning, the next time you get together with some friends, say hey, can anybody in this group justify or figure out why the Government wants to tax you on your death, why the Government wants to take the money that you spent your entire life working for and give it to Uncle Sam instead of allowing you to pass it on to your family, and by the way, keep it in your local community? Now, do not kid yourself, this applies to the average American.

For example, a person who began faithfully contributing 10 percent of their salary to a 401(k) starting at age 25 and who earned $41,000 a year by age 50 can hardly be considered a Rockefeller. Nonetheless, if you do the math, this person could accumulate $900,000 in their pension fund by the age of 60, and by 63 they could have enough in their 401(k) to face a success tax, a death tax, on their distributions from that account. It is not fair. We in this country suffer not just from our family farms and our family ranches, but anybody who begins to accumulate any success at all as a result of their hard work in this country, will be taxed by this Government upon their death. It is not fair.

I have a friend who built up a business, who sold his business last year. Unfortunately, he got hit with capital gains taxation, 29 percent. Then, unfortunately, he found out he had terminal cancer. Three months later he died. The effective rate on his estate is 73 percent, and this is income that was taxed before. What happens?

This gentleman made a good living. He supported 75 percent of the operating costs of his local church. What happened this year to the local church? The family had to say, we have to send that money to the Capitol. That money goes to Uncle Sam under the death tax. We can no longer support the local church. We cannot pass our business, we have a fire sale of our business. We have to sell our father's home that we had hoped the other family, his sister in this case, could move into, because we cannot afford to pay this tax. We have to have cash for Uncle Sam, and that cash, that debt accumulates the second you die. It is patently unfair.

In this country there is no other tax that I can think of that is more unjustified, more destructive of the American family than the death tax, and it is about time that Congress got together and stopped this unfair taxation. It is sucking the money out of the family, it is sucking the money out of the community, and it puts it into a bureaucracy that cannot spend it near as well.

So I urge all of my colleagues to join myself and many others in signing on to the bill which will eliminate the death tax once and for all in this country and let one family pass their hard work on to the next generation and the next generation.

Mr. Speaker, if we want to do something for our children, get rid of the death tax.

HOPE FOR EARLIER TAX FREEDOM DAYS IN FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. COOK] is recognized for 5 minutes.

Mr. COOK. Mr. Speaker, I appreciate the opportunity to speak tonight about Tax Freedom Day. Tax Freedom Day this year is a day of both dismay and hope. A day of dismay because May 9, the day that Americans finally stop working for the Government and start working for their families, comes later this year than it has any other previous Tax Freedom Day. A day of hope, however, because this Tax Freedom Day comes a week after an historic budget accord between Congress and the White House which for the first time in years offers hope of tax relief for the American people.

□ 2215

I hope to be able to stand here with Members next year in honor of a Tax Freedom Day that comes way before May 9 because of the budget accord and the tax relief it promises.

As a freshman who until a few months ago eyed Washington, DC and Congress through the eyes of a private citizen, I am thrilled with this budget accord. I have read many of the news reports and the opinion pieces, as I am sure you have, that attacked this accord or advised caution.

But to me, this accord and other actions we are taking this year make the 105th Congress, along with the 104th Congress, stand out as Congresses that listen to the American people in a way that Congress has not done for decades.

Let me give a few examples. Recent polls show that 61 percent of Americans believe the IRS has too much power. We have before us this year the IRS Accountability Act that would make IRS agents criminally liable for abuses of power. Fifty-eight percent of Americans believe their Federal income taxes are simply too high.

The budget accord we vote on next week provides a remarkable net tax relief of $85 billion over 5 years, and $250 billion over 10 years. Sixty-nine percent of Americans polled believe we need to fundamentally overhaul and simplify the Federal Tax Code. Further, a startling 70 percent of Americans believe loopholes in our current tax laws allow people that earn the same amount of money they do to pay widely lower taxes. This Congress has heard those Americans. This Congress has brought this country closer to tax reform than we have been in decades, to the brink, I hope, of real tax simplification.

Tax Freedom Day is often a day of dismay as we realize with each passing year our freedom from slavery to a bloated Federal Government comes later and later. But tax freedom this year is a day of hope. I look forward to working with Members in the coming year to make that hope a reality for this country.

EXPRESSING APPRECIATION FOR MEMBERS' SUPPORT ON HOUSE RESOLUTION 93

The SPEAKER pro tempore (Mr. GILCHREST). Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to address the House for purposes of thanking my colleagues today for approving House Resolution 93.

House Resolution 93 expresses the sense of Congress with regard to the Consumer Price Index, and that the Bureau of Labor Statistics be the sole agency that determines what the level of the cost of living index should be.

My colleagues may recall that it was not long ago in the Senate that the Boskin Commission came out and said we ought to artificially reduce a budget-driven number or a deficit-driven number or politically-driven number, to reduce by 1.1 percent the CPI. Later facts disclosed that there was not really evidence to support that arbitrary decrease.

In fact, I am happy to report that the vote today of 399 to 16 shows overwhelming bipartisan support within this House, and I believe now within the Senate, to make sure we protect our senior citizens by making sure that the Bureau of Labor Statistics is the sole decision maker when it comes to making the CPI adjustment.

This legislation was supported by the American Association of Retired Persons, AARP; the National Council on Aging; the National Council on Senior Citizens; the National Committee to Preserve Social Security and Medicare. Furthermore, it was supported by veterans groups, and I am pleased also to report that the chairman of the House-Senate Joint Economic Committee, the gentleman from New Jersey, Mr. JAMES SAXTON, supported the bill as well.

It is because we want to make sure that taxes will not be raised and because we want to make sure we protect the pensions for our seniors; whether they be military or Social Security or other programs for which we have Federal retirement programs, we want to make sure our seniors are protected.

In fact, had we made that arbitrary allowance for a reduction of the CPI, it would have cost taxpayers approximately $320 billion. So this is certainly a step in the right direction. As we move forward to a bipartisan balanced budget for this next fiscal year, we know that the House has gone on record today, on behalf of our seniors and all taxpayers, saying that the CPI should not be a politically driven number, should not be one controlled by a deficit-driven number or any kind of politics, but the Government agency of the Bureau of Labor Statistics should determine that number, in fairness to our seniors, to our families, and to all of our citizens.

I thank the House for its bipartisan support, and I look forward to other issues that protect our seniors and all taxpayers.

ANOTHER NAME FOR THE DEATH TAX: THEFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, a lot of controversy was generated recently when Deputy Treasury Secretary Lawrence Summers stated that anyone who wants relief from the inheritance tax, the death tax, is selfish. He later retracted that remark, but revealed a basic philosophy shared by many high officials in our Government. I am an original cosponsor of two bills dealing with the death tax.

The first, introduced by my good friend, the gentleman from California, Mr. CHRIS COX, would totally repeal the death tax. The other, sponsored by appropriations chairman, the gentleman from Louisiana Mr. BOB LIVINGSTON, would increase the inheritance tax, the death tax, exemption from $600,000 to $1.2 billion.

By the way, the budget agreement between congressional leaders and the President lifts the exemption to that level, but over a period of years. We should do it immediately. At least this is a step in the right direction.

I want to emphasize again that I am a deficit hawk. I have opposed some tax cut proposals because they were not accompanied by corresponding spending cuts. It would have made it much harder, if not impossible, to balance the budget in the near future.

However, I would point out that the Federal Government receives virtually no benefit from the death tax. In fact, it probably loses money. It sounds incredible, but it is true. According to Investors Business Daily, the death tax accounts for only about 1 percent of all Federal taxes collected. What is worse is that the IRS spends as much as three-fourths of that 1 percent to collect the tax.

When we add in lost businesses, lost jobs, and lost output, the death tax becomes a net loser in terms of Federal tax dollars. In other words, after all the grief it causes small business owners and farmers, the death tax ends up costing more, at least as much or more than it brings in.

We often hear from death tax supporters that repealing or reforming it would be a tax cut for the rich. It simply is not true. The very wealthy spend thousands of dollars on accountants and attorneys to find ways around the death tax, such as setting up trusts. But average people cannot afford such tax dodges, so they have to pay the death tax.

In a recent editorial the Seattle Times pointed out that when the tax was first enacted in 1916 it primarily affected the very wealthy. Quoting now from the editorial, "Times have changed. Today's farmers, ranchers, lumbermen, merchants, and small- and medium- and large-family business owners alike feel the crunch of estate taxes. The estate tax is out of date and out of step with the Nation's proud tradition of supporting family-owned businesses."

Mr. Speaker, the death tax harms small businesses and threatens their very survival. According to the Small Business Survival Committee, 60 percent of family businesses fail to survive in the second generation, and 90

percent do not make it to the third generation. A leading cause of their demise: the death tax.

This also harms the Nation's economy. As the head of a family business grows older, there is little reason to expand his or her company. When a company goes out of business or is sold to a large corporation, people lose their jobs. A study and research on the economics of taxation indicates that if the death tax had been repealed in 1993, by the year 2000 the gross domestic product would be $79 billion greater and 228,000 more people would be employed.

Mr. Speaker, another reason we need to reform or even repeal the death tax is that it is inherently unfair. The money a person earns during his or her lifetime is taxed over and over again in the form of income taxes, capital gains, taxes on investment, taxes on interest. When someone dies, is it fair for the government to take another 55 percent of a lifetime accomplishment? Absolutely not.

A constituent of mine from Oak Harbor, Washington recently wrote, and I quote:

> People work and pay taxes all their living years to pass on to their children and grandchildren some assets: a house, a farm, a business. Upon death the government wants to tax the estate again, taking the lion's share. I call that theft.

When we take into consideration that the death tax hurts business, harms the economy, is unfair to many families, and that it does not really raise any net money to help reduce the deficit, there is only one conclusion that can be reached: There is no logical reason to continue the death tax.

H.R. 3, THE JUVENILE CRIME CONTROL ACT, AND THE JUVENILE OFFENDER CONTROL AND PREVENTION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. STUPAK] is recognized for one-half of the time remaining before midnight as a designee of the minority leader.

Mr. STUPAK. Mr. Speaker, tonight I am joined by many of my colleagues as we want to talk about H.R. 3, the so-called Juvenile Crime Control Act, put forth by the majority party.

Mr. Speaker, as co-chair with the gentlewoman from California, Ms. ZOE LOFGREN and the gentleman from Virginia, Mr. BOBBY SCOTT, for the last 3 months we have held hearings, we have held meetings to try to fashion a bill that could really treat juveniles with justice, with compassion, with punishment, with treatment, with education, and a comprehensive plan. We have brought forth such a bill, and it will be the substitute tomorrow.

Mr. Speaker, before we talk about the substitute we are going to propose, let me just for a few moments reflect back a little bit on the debate we had here tonight. In the past 3 months that the Democratic Party has been working on our juvenile justice bill, we learned a couple of things.

We learned, No. 1, that most juvenile crime, contrary to what we heard here tonight, is not murders, it is not rape, it is not robbery. The most common crime is what we call MDOP, malicious destruction of property. It occurs between 3 p.m. and 8 p.m. That is what most of the juvenile crime in this country is.

We learned that in the Federal Government we have control over 197 juveniles. One hundred ninety-seven juveniles. Of that 197, 120 are Native Americans or are on reservations, and we have jurisdiction over them. So we are talking about 77 individuals that we as a Federal Government have control over.

The States, on the other hand, they incarcerate or have under their control up to 300,000 juveniles per year. What has the majority party recommended? That the Federal Government, in its infinite wisdom, basically take control of the juvenile justice system for the whole country. We base that knowledge upon 197 juveniles that we happen to have some control over in this year of 1997.

We heard so much about Tax Freedom Day a little bit ago, and a bloated Federal Government, and all the majority party are these great deficit hawks. Yet, they want to spend $1.5 billion over the next 3 years to incarcerate juveniles, according to Washington standards, according to our standards. Whatever we pass in H.R. 3, that will be the standard.

Mr. Speaker, that is no way to deal with juvenile justice, it is no way to deal with juveniles in this country. We are here tonight. We spent 2 hours on the bill. We will have approximately 2 hours tomorrow; 4 hours on juvenile justice. We heard what a great problem it is throughout this country, and it is. Can the 105th Congress not give us more than 4 hours on juvenile justice? We have been working on a HUD bill, housing and urban development bill, for over 1 week. Yet, when it comes to crime and juveniles, we can only spend 4 hours.

Mr. Speaker, tomorrow I will be proud to introduce the Stupak-Stenholm-Lofgren-Scott-Delahunt-Mel-Watt substitute. It is going to be our Juvenile Offender Control and Prevention act. It is a tough bill. It is a smart bill. It is a balanced bill. It is tough in the area of providing comprehensive treatment, education, and prevention for juvenile delinquency. We give the local communities, not the Federal Government but the local communities, the flexibility to decide what they need to stop violence in their community. It is the local communities that must determine how to stop violence; not the State, not the Federal Government, but our local communities.

□ 2230

We in our 3 months of hearings got together with police officers, probation officers, judges, teachers, parents, and what is needed to fight this problem we have of juvenile delinquency in this country? They said, give us the flexibility to address our individual needs.

I come from northern Michigan. My largest town is maybe 20,000 people. I have a very large rural, sparsely populated area. Our problems are much more different than Boston or south central LA. And what have the experts said? We should give the local communities the flexibility to do what will work in their community. What will work in northern Michigan is greatly different from what is going to work in Boston or LA or Alabama.

Sixty percent of the 1.5 billion we use, the same money that the majority party is going to use, we are going to take about 60 percent of our money over the next 3 years; and it will be used for prevention, early intervention and treatment of juveniles. We are going to do that by strengthening the family. We are going to provide for safe havens for after school. Why? Because as I said earlier, most crime occurs between 3 and 8:00 p.m. and it is vandalism.

We have drug prevention, drug treatment and drug education. Each community must base their initiatives and it should be based upon research, proven research, cost-effective efforts, because we want to be smart with the taxpayers' money, smart in our approach as we prevent serious violent juvenile crime.

The McCollum bill, the majority bill, gives us zero money for prevention, zero money for early intervention, zero money for detention, zero money for prevention. Instead the majority bill wants to try 15-year-olds as adults and after they convict them, then they are going to tell you, you have to lock up that 15-year-old with adult prisoners. There is no option and there is also an option. There is also an option with the majority bill to even try juveniles as young as 13 years old, 7th graders and 8th graders as adults. That is their bill. Get tough, lock them up, put them away and do not worry about it. That is coming from the Federal Government who has no experience in this area.

Instead, the minority party, the Democratic substitute will have a smart, tough and balanced bill. We are going to be tough on juveniles in that right now underneath the Federal system, juveniles can only stay until 21 years old. We are going to extend that time for violent juvenile offenders. They are going to be incarcerated

through age 26 in our bill. We are going to expedite the time that a judge will only have 90 days, and it will be the judge who will make the decision. He will have 90 days to decide whether or not to transfer a juvenile from juvenile court to adult court; not the prosecutor, not the popular elected thing, because we are going to take politics out of juvenile crime.

We are going to let the judges decide where they are empowered to enforce the law, not the political speech. We are going to increase the penalty for those juveniles who are using a gun in a crime, something that has not been done before. We are going to increase that penalty. If they are going to use a gun in a crime, punishment will be swift and severe.

We are going to expand the use of records, juvenile records for law enforcement purposes. We will require mandatory restitution in juvenile offenses. And once a juvenile is determined delinquent, the court is only going to have 20 days to finally impose sanction and penalties and not drag it on.

And all of the States in our bill will benefit, all States including the District of Columbia can benefit because the money will go to local units of government based on tough, smart research, proven research based upon local community initiatives.

Mr. Speaker, that is not like the majority party. What do they want to do? We are going to mandate what we have to do, what States have to do, and if they do not do it, they get no money.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

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

Mr. DELAHUNT. Mr. Speaker, the gentleman has referenced several times that, if the States do not comply with the mandates that this bill provides, the mandates that many of us disagree with based on very sound public policy, because as indicated, we are hurt time and time and time again that these initiatives, these mandates simply do not work.

But what happens to that $1.5 billion? For those States that make the decision that they want to chart their own course? I would ask the gentleman if he knows what happens to that $1.5 billion? Is it then spread among the very few States that do comply?

Mr. STUPAK. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. DELAHUNT] on his inquiry. If we look at the report put forth by the gentleman from Florida [Mr. MCCOLLUM] and the Juvenile Crime Control Act of 1997 out of the Committee on the Judiciary, they lay out on page 78, despite the fact he claimed he had no knowledge of it tonight, but on page 78 it says, we propose this program for several reasons.

First, as written, it appears only 12 States, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Mississippi, Nebraska, New York, North Carolina, I know that is under some dispute with the gentleman from North Carolina [Mr. WATT], Vermont and Wyoming, would possibly qualify for funding. The other 38 States and the District of Columbia do not qualify. It is 1.5 billion spread among 11 or 12 States.

Mr. DELAHUNT. Mr. Speaker, if the gentleman will continue to yield, I was stunned this afternoon to hear the primary sponsor of this bill could not even confirm that his own State of Florida could comply with the mandates of his proposal which would, coming from Washington, again tell the States that do have the experience how to handle violent juvenile crime. It just absolutely stunned me to hear that. I respect the gentleman. I know that he is a man of deep convictions. But I would think that this Congress, this body would not want to vote on such a significant piece of legislation until every Member knew exactly whether his or her State would be in compliance with the mandates that the bill puts forth. And to hear the primary sponsor acknowledge that he did not know himself whether the State of Florida would qualify I found incomprehensible.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, in following up on this point, because I think that the Democratic substitute took long months of deliberation to confront the issue of being strong both on preventing juvenile crime and as well addressing the question of violent juvenile crime.

Texas is considered a State that has addressed the question of violent juvenile crime, and it is not a State that is viewed as one that takes lightly the seriousness of juvenile crime. In fact, it is a State considered tough on crime. Texas, Far West, will not be eligible for these funds.

At the same time, they will tell my good friend from Boston that his program is not a valid approach; his prevention program, his method of now 2 years without one single homicide is not valid. I would simply say to the gentleman from Michigan that I will leave him with this question: We need to consider what we would like to happen to our own children in this instance. I am sorry that the deliberation and those who designed this bill, H.R. 3, did not think of that. For we can see in the large gap between locking them up and lack of prevention dollars, they did not give the consideration to how they would want their children to be thought of and handled.

Mr. STUPAK. Mr. Speaker, reclaiming my time, I think that is the question we should ask here, it is $1.5 billion, only 12 States at best can enjoy that $1.5 billion. We are spending that much money on a few juvenile delinquents in a select number of States. And what do we tell all of the rest of the children in this country? And we cannot provide health insurance. But yet we are going to spend $1.5 billion over the next 3 years for 12 States to lock up some kids because the majority party feels they are going to get tough on it.

What has the National Conference of State Legislatures wrote to us today and said, this is ludicrous. Stop this. You are putting on unfunded mandates. You, the Federal Government, are telling us what to do and giving us very little money. And we all have to comply and you have no experience in this field. Washington is telling us how we have to do it. They have missed the whole point here. I really hope that our Members reject the majority bill tomorrow and accept the Democratic substitute.

Let me finish up with a few more words here before I yield to the gentlewoman from California, my good friend. Our bill, the Democratic bill that took us 3 months to put together and many hearings, we target violent kids. We crack down on juvenile gangs. And if you commit a crime with a gun and you are a juvenile, the punishment will be swift and severe.

I was a police officer. The gentleman from Florida [Mr. MCCOLLUM] said tonight, we are sending a message; we are going to stop crime before it gets started because we are going to be tough on everyone. It does not work that way. I was on the street for 13 years. It does not work that way.

Mr. DELAHUNT. Mr. Speaker, I think it is so important to understand, and I have heard the Chair of the Subcommittee on Crime say again and again and again that we are sending a message. I think that he fails to understand that those violent juveniles that he wishes to take off the street, and I agree with him, are not going to be deterred. There is no such thing as deterrence when we are talking about that hard core juvenile. Incapacitation, yes, but if we are going to lock them up, let us not lock them up in an adult prison where they are going to receive the very best training in terms of violent crime. They are going to receive a Ph.D. in violent crime if we send them to adult institutions. I promise you that. That is my experience as a prosecutor in the Metropolitan Boston area for over 20 years.

Ms. LOFGREN. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Speaker, I think it is worth pointing out, as a member of the Committee on the Judiciary, I was distressed that this bill received just 12 hours, really, of discussion. And there were a lot of things that are unknown.

For example, we did know that only arguably 12 States would qualify. I must point out, California is not among those 12. But we did not specify who gets the excess funds. So it is possible that Florida gets California's money or not. This is a real issue because right now the money we are talking about, the $1.5 billion, is in the violent crime trust fund.

Those funds are currently flowing to States and localities. Every State is getting some of that money and so it will be a real loss to cops and prosecutors who are currently getting funding if States do not qualify and we know some do not and some will never. So this is important.

I know you have a few closing remarks but this bill is flawed in so many ways that I hope to have an opportunity to go through some of them, because I think so many of our Members have been busy on budget or other, HUD or other items that they have not yet had a chance to really go through the bill line by line as we have on the Committee on the Judiciary and as the gentleman has as one of the co-chairs of our committee. I hope to go through a couple of other points when the gentleman finishes his presentation.

Mr. STUPAK. Reclaiming my time, Mr. Speaker, the gentleman from California [Mr. RIGGS] came down and he said he hoped to put on something with a bill later this year with prevention. I think we all know, we all have a couple terms here now, that tomorrow never comes in Congress. It is what we are doing today.

This juvenile prevention bill or juvenile control, Juvenile Justice Act, whatever they are calling it now, that is where it is today. It promises something tomorrow, and it will never come because there will be some new crisis we will jump to. But we are not going to arrest our way out of it.

The gentleman from California [Mr. RIGGS] was correct. He was a police officer for 8 years. He said the same thing. He said it is absolutely right. You cannot arrest everyone and you cannot lock them all up and expect to solve this problem. There has to be a combination here of prevention, treatment and early intervention and intense supervision and, yes, there are some that we will have to lock up. We should be there to assist.

Ms. LOFGREN. Mr. Speaker, if the gentleman will continue to yield, he is absolutely right.

We need to do all of the things. We need to do prevention, intervention, we need to incarcerate some kids and in some cases there are some very tough kids who need to be tried as adults in my opinion. But to say that the $1.5 billion can go to those 12 States for incarceration because we are going to have a prevention bill coming, that prevention bill has $70 million. So the $70 million for prevention versus the $1.5 billion for trying young people as adults, that is not a balanced program. That is an extreme program and one of the reasons why we should not approve H.R. 3 tomorrow.

□ 2245

Mr. STUPAK. Mr. Speaker, reclaiming my time, one of the real great spokespersons, articulate individual in this whole matter, has been the gentleman from North Carolina, Mr. WATT, who points out to us time and time again that North Carolina has more than its share of prosecuting young people and has probably the most severe and toughest juvenile justice laws on the books, and it has not always worked, and I yield to the gentleman for his comments.

Mr. WATT of North Carolina. I thank the gentleman for yielding. I want to correct my colleagues on one point. They keep saying there are 12 States that qualify. I want to assure them that North Carolina was included in the list of States that, according to the report, qualified, but I have a letter from the State of North Carolina in my file——

Ms. LOFGREN. So we are down to 11, maybe?

Mr. WATT of North Carolina. We are down to definitely a maximum of 11.

And understand that there are four criteria that a State has to meet to get these funds. What we found out was that North Carolina, as aggressive as we are, as much as North Carolina supports the philosophy of the bill the gentleman from Florida professes to support, that we do not meet three out of the four requirements. We fail on three out of the four requirements.

We do not have open juvenile records; we do not allow the prosecutor, by himself, to decide whether to prosecute as an adult, because we think it is reasonable for a judge to make that determination; and we do not sanction parents who fail to supervise their children. We do not punish the parents for that.

Those are three of the four requirements and we fail on those three, so we do not get any of the money, even though we have some of the toughest juvenile laws in America.

Mr. DELAHUNT. Will the gentleman yield?

Mr. WATT of North Carolina. I would be happy to yield.

Mr. DELAHUNT. Mr. Speaker, I think that every Member of Congress, before he or she casts a vote, has an obligation to the people that he or she represents to check, as the gentleman from North Carolina did, with the Attorney General of their respective States, because it is my belief that the gentleman is correct. There are probably maybe one or two or maybe three States that could even file an application to secure funding from that $1.5 billion pot. This just does not make any sense.

And those mandates, and they are mandates, are an attempt by a segment of this House to impose national standards in terms of juvenile justice, and they have, as has been stated and restated, no experience.

I wanted to pose the question to my friend and colleague on the Committee on the Judiciary, the former U.S. Attorney in Arkansas, Mr. HUTCHINSON, whether he ever tried a juvenile case as a United States attorney. I daresay that his answer would have been no, because there is no Federal system.

They do not know what they are talking about, and yet it is fascinating, because I was reading the Orlando Sentinel of May 9, 1996, just about a year ago, and there was a statement there by the Chair of the Subcommittee on Crime, the primary sponsor of this bill, and he was referring to more than $500 million for law enforcement block grants. He stated, and these are his words, "Local communities can now tailor programs to meet their particular needs instead of using Federal crime fighting dollars," and this is a quote, "for Washington-knows-best prevention initiatives. This recognizes that what works in Spokane may not work in Orlando and it encourages local innovation to fight crime."

So what the gentleman from Florida would suggest is that when it comes to prevention, we will not have mandates, I guess, but when it comes to intervention and to prosecution and to treatment, we better have mandates because we in Washington know best. I daresay that one of the few States, it appears, and he does not even know, the State of Florida probably complies with these mandates.

I wonder if we examined the statistics for juvenile violence in Florida, where it has been tested, whether it works. I am willing to challenge the gentleman from Florida to review the statistics on juvenile violence in Florida with the statistics on juvenile violence in Massachusetts.

Under the gentleman's bill, and I know what we have done there, and I know it worked and I know we are heading in the right direction, but under the McCollum proposal, we do not have access to expand our efforts and we will not qualify for that $1.5 billion. That just does not make sense.

Mr. STUPAK. Mr. Speaker, I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Speaker, I think it is important, because as so many of our colleagues, as I said earlier, have not really had a chance to take a look at this bill, and the vote will be tomorrow, that we go through some of the flawed elements of H.R. 3, and they are serious.

As others have mentioned, there are currently, I think last year there were, I think, 197 juveniles in the Federal system. However, under the bill we are mandating, in the case of 14-year-olds,

requiring prosecution of 14-year-olds as adults without any discretion on the part not only of judges but without any discretion on the part of prosecutors either. Further, the bill permits prosecution of 13-year-olds as adults in the Federal system.

Now, I think most of us know that even very young children can do truly awful things and that there are occasions, and opinion is divided, but I believe there are even very young children sometimes who need to be held to an adult accountability. But to automatically make that decision without doing a case-by-case review is not supported by the facts and will not make us safer.

There is another issue in the bill that I think many Members need to be aware of, and it is a proposed massive expansion of the Federal role in juvenile delinquency and law enforcement.

Under the bill, and there will be an amendment tomorrow, there is a whole series of Federal offenses, including conspiracy to commit offenses. Included are virtually all drug crimes and drug trafficking crimes. Now, no one likes drug trafficking. No one approves of it. But when we include conspiracy to commit a drug trafficking crime, the truth is that we are talking about having Federal police having the ability to go into towns and cities throughout this country and prosecute and arrest 13-year-olds standing on the street corner, part of urban street gangs.

I trust our local police, I think, a whole lot more to do that. I think I trust our local DA and our local judges a whole lot more to do that local law enforcement job than the creation of a U.S. police force. I think that is something that needs attention on the part of Members.

Finally, I think we need to take a look at who, even at this late date—and this has been quickly done—who is on which side of these issues. We already know that the State legislatures oppose the bill. I just got letters in today from the United Methodist Church, the Presbyterian Church, the United Church of Christ, the Evangelical Lutheran Church, and the Churches of Christ all urging Members of this House to oppose H.R. 3. Why? They realize that the scheme outlined in the bill not only will not make our country safe, but it is inimical to our Christian faith. And I think all of us need to pay close attention to the guidance that the clergy is giving to us in this matter.

Finally, the gentleman from Florida, as chairman of the committee, did mention, and I think we need to review this, that there is some $4 billion in funding for prevention anyway in the government. The YMCA, the Young Men's Christian Association, did an analysis of that assertion, and I am going to make it available to Members tomorrow morning in the mail, but I think it is worth pointing out that included in that $4 billion are things that have nothing to do with prevention. And the YMCA concludes that the programs and the funding is not correct. It is misleading.

I know the gentleman did not intend to mislead, but I think it is important that the Y's analysis be made available to the public.

With that, I would simply say that our bill is tough on crime, it recognizes that young people do need prosecution, but it also understands if we only do that, it is saying we have to have more victims before we respond.

As Mark Klaas said, "Saying that we are building prisons to solve crime is like saying we are building cemeteries to solve the problem of the deceased."

Mr. STUPAK. Mr. Speaker, I thank the gentlewoman for all the work she has done on this and look forward to the continued fight tomorrow, and with that I yield to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time and also for helping with this special order.

I think it is a very important issue because we fundamentally have a choice. We can do what works to reduce crime, or we can do what sounds good, makes maybe good politics but does not do anything about the crime rate. Unfortunately, we cannot do both.

We know what works. We have seen studies of Head Start, recreation, boys and girls clubs, Big Brothers, Big Sisters, a number of programs that work to reduce crime. These have been proven. They are cost effective. They keep kids out of trouble. They do not get in trouble in the first place, and, of course, that strategy has the added advantage that people do not have to be brutalized because there are no victims when we have prevented the crimes.

People have suggested that we are not tough or that we are choosing between punishment or prevention. They ignore the fact that in some communities we already have more of our young people in jail today than in college. Our incarceration rate in America is the largest in any country on Earth.

The average internationally of people being locked up is about 100 people per 100,000 population. Canada about 117, Mexico 97, Japan less than 50 per 100,000, the United States is already above 500, almost 600 people per 100,000. I have jurisdictions in my Congressional District that lock up about 1,500 people per 100,000. Fifty in Japan, 117 in Canada, 1,500 city of Richmond. So we cannot suggest that we are not cracking down on crime.

The fact is that the little money in this bill for prisons cannot possibly make any difference. This bill has a total national funding of $500 million. Virginia's portion of that on a per capita basis will be around $10 million.

Now, we are already in the middle of a prison expansion program where we are going to be spending, when it is all phased in, another billion dollars a year for new prisons. New prisons. Not all prisons, new prisons. With this bill, instead of $1 billion it will be $1.01 billion. Obviously, that cannot possibly make a difference.

Or that $10 million can be used in initiatives that will help juveniles by increasing the number of juvenile probation officers, with better supervision or other initiatives that will actually make a significant reduction in recidivism.

□ 2300

We should always address our problems and not just come up with solutions that have nothing to do with the problem.

We have heard, for example, earlier today that the highest crime rate is for those 17 to 19 years of age. One thing that strikes one right off the bat is that those 18 to 19 are not covered by the bill, they are treated as adults and are not even affected by revision in juvenile laws.

For those 17 years of age that commit serious offenses, they are going to be treated as adults. As a matter of fact, we treat so many juveniles as adults right now that more than half of those treated as adults are treated as adults for nonviolent offenses. We have gone all the way down the offenses where most of the children treated as adults are for nonviolent offenses. Our problem is that we do not treat enough juveniles as adults, we treat too many. The third is that we do nothing about those 14 to 16 and disturb their trajectory for those going into crime. If we do nothing to change that trajectory, 3 years from now when they are 17 to 19, we would have done nothing about the crime rate. If we expect the rate to be lower than it is today 3 years from now, we have got to focus on the 14- to 16-year-olds and even younger and prevention must be the focus in our juvenile crime rate.

We must also address the facts. The fact is that if we treat more juveniles as adults, the violent crime rate will go up. There are no exceptions in studies of that premise. That if we increase the number of juveniles treated as adults, the violent crime rate amongst juveniles will increase.

The Families First alternative will focus where the money can do some good. It will strengthen families and empower children to stay out of trouble. As I said, it is not a question of prevention or punishment. We are already punishing. There are things in this bill, like we know that treating more juveniles as adults will increase violent crime. They have things to publicize records of juveniles. If they are

treated as adults, if it is a serious offense, their trials will be public as adults, their records will be public. There is no evidence that that public notoriety will do anything to reduce crime. In fact, we have had evidence that, in fact, some juveniles will create crimes in order to get the notoriety. We want to focus on things that will actually make a difference, and that is why I am supporting the Families First alternative.

We already punish children more severely than anywhere else on Earth. If we are going to do anything about reducing crime, we have got to focus the extra money on prevention and not on counterproductive soundbites that do not address the problem.

The gentlewoman from California [Ms. LOFGREN] mentioned the question of conspiracies and said if you find people on the street committing drug crimes, if all they have on a juvenile is a conspiracy, that means they did not find him doing anything, he was sitting up late at night where they agreed to commit a crime, when he woke up the next morning, he went on to school and did not do anything. But he is part of the conspiracy. When the others go commit the crime, he can be found guilty of conspiracy, subject to mandatory minimums, and the way this bill is crafted, the judge would have no alternative but to sentence him with the mandatory minimums without any consideration to his prior record, to his role in the crime, to the seriousness of the crime, to his amenability to treatment, anything like that. He will be subject to the mandatory minimum, disrupt his education, and we know that he will be much more likely to commit crimes in the future because he comes out without the education. We need to support the Families First alternative because it addresses the problem. I am delighted to participate with the gentleman from Michigan in this special order to promote that alternative.

Mr. STUPAK. The gentleman makes an interesting point that in his prison construction of $1 billion in new prison construction in Virginia, even if you receive your $10 million if you ever met the Federal standards or the Federal mandates, remember, that is just $10 million to help you build a prison. That is not what it costs for the guards and everything else that goes in. The smallest cost in prison is the construction. The most expensive, 80 percent, is for personnel, the cost to operate. We are leaving the States with that extra burden of now having to operate it. We will pay for the brick and mortar, but now you have to operate it.

Mr. SCOTT. If the gentleman will yield; if we are spending $1 billion, plus $10 million is $1.01 billion, it will have zero effect on the crime rate. We need to put the money where it will actually make a difference.

Mr. WATT of North Carolina. If the gentleman will yield on that point, that gets me to another real concern, because we are building all these prisons. I think what ultimately ends up happening is what this bill allows to happen, which is, we will end up putting juveniles in jail with adults, which has been absolutely contrary to policies that we have been supporting.

In fact, all the evidence confirms that children who are housed with adults are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, 50 percent more likely to be attacked with a weapon. In 1994, 45 children died while they were confined in State adult prisons or detention facilities, including 12 murders and 16 suicides.

I just do not want to receive any more letters like this one. I am not one that usually comes and makes policy by anecdote, but this one I could not resist, because it is from a father. He is describing to me as his Representative the plight of his son.

He said, "My 16-year-old was certified and sentenced to 8 years." That means he was certified as an adult. Sentenced to 8 years. This was his first offense. He was being raped, beaten for money or sex too many times. This is in the adult facility. Before this he went to the warden asking for protective measures, only to be laughed at. Finally you get to the bottom line here. His ultimate decision was suicide.

So this kid gets convicted, sentenced as an adult, with adults, sexually abused, and ends up committing suicide. That is just not something that we want to have happen based on our policies.

Mr. DELAHUNT. If the gentleman will yield, what I find interesting is that the gentleman from Florida has this unfounded belief and confidence that if the juvenile is incarcerated in the adult system, that when he leaves the adult system he will come back into the community and be a positive, contributing member of his neighborhood, his community, and his State. The reality is that that has simply been proven time and time and time again to be false.

If we are going to have an opportunity to chart and influence a different course for the juvenile offender, our only hope is a strengthened juvenile justice system. That is what we should be about. There are portions of the bill which I think everybody on this side could support because it goes to fund programs, and this is my reading, within the juvenile justice system that could improve it. But why these mandates that would deny States access to the funding?

What the gentleman is trying to do in this particular area is to nationalize what has historically been reserved to the States, and that is the juvenile justice system. What I find interesting is that there are some areas that he appears to understand that the States can do some positive initiatives and that can genuinely be a laboratory, if you will, for experiments that may or may not work. But he has not provided any evidence whatsoever other than just simply standing up and saying, "We're going to send a message."

These young men, they are not going to read the CONGRESSIONAL RECORD tomorrow. They are not going to examine the statute. They are not going to be deterred. They think and act and respond differently. They are not going to be deterred.

Mr. STUPAK. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, I think this special order points out how we are not focused on the problem. We need to focus on the problem of juvenile crime. The bill that we considered earlier today and will be considering again tomorrow misses the point. It spends all of its money after the fact dealing with juveniles, treating more juveniles as adults when we know that that does not work. We know that drug rehabilitation programs cost about 5 percent of sending somebody to jail, reduces recidivism 80 percent, so it is cheaper and more effective. Those are the kinds of effective programs that we should be focused on. I am delighted to participate with the gentleman from Michigan, the gentleman from Massachusetts and the others that were here so we can show that some of us are actually trying to reduce crime. Although it may not be as politically popular, we are focused on the issue. I am delighted to work with the gentleman on this. We need to get away from the soundbites and back on the point. The Families First agenda does that.

Mr. STUPAK. I thank the gentleman from Virginia [Mr. SCOTT] for all of his work and being the cochair of the Democratic Task Force on Crime, I will continue to work throughout the rest of the 105th Congress with the gentleman and with the gentleman from Massachusetts [Mr. DELAHUNT], a new Member from Boston who has been of great help to us.

In summation, the Families First juvenile justice bill that we will be presenting tomorrow morning at approximately 10:30 as a substitute to the McCollum bill, really it indicates that we need a balanced approach to the problem of juvenile crime, an approach that would include enforcement, intervention, prevention, and, of course, detention for those violent individuals who have to be detained. It would be based upon smart, cost-effective, community-based initiatives, proven initiatives through research as we have seen in Boston, in Minnesota, and other places around this Nation when we have let local communities determine what is best for them in their communities to deal with their problem of juvenile crime.

BIPARTISAN BUDGET AGREEMENT

The SPEAKER pro tempore [Mr. GILCHREST]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Georgia [Mr. KINGSTON] is recognized for the remaining time before midnight as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I want to say to my friend from Michigan that he still will see me in the gym bright and early in the morning, and I hope I will see both of the gentlemen because they have been a little sluggish lately.

Mr. Speaker, I have with me the gentleman from New Jersey [Mr. PAPPAS] and the gentleman from Pennsylvania [Mr. FOX]. We wanted to talk about the budget agreement that took place on May 2, last Friday. We think it is very important, very, very significant. Unlike other budget agreements, this agreement was hammered out on a bipartisan basis, and instead of having the promises now and the spending reductions later, it has the promises now and the spending reductions now.

The bill basically does five things which I think are truly significant. First, it balances the budget by 2002. Second, it provides tax relief for middle-class families now, not 5 years from now, not in 2002, but it does it now, in recognition that middle-class families need a tax cut and that tax cuts can, in fact, promote growth, which is one of the easiest ways to reduce the deficit. Third, this bill addresses the Medicare problems and solves Medicare's immediate concerns for the next 10 years. Fourth, it has major entitlement reform which, as the Speaker knows, is about 51 percent of our entire annual expenditures.

□ 2315

Then No. 5, it includes funding for many, many of our important domestic programs such as transportation, housing, and education.

I think if you look at this budget, Mr. Speaker, it is certainly not perfect, but it is a very significant step in the right direction. I believe that we have a great opportunity, an opportunity which is at hand in this Congress to get something done with it.

Mr. Speaker, with those introductory remarks, let me yield to the gentleman from New Jersey [Mr. PAPPAS] who is a freshman and came here with the idealism that all of us come here and, I think, most of us never lose, but Mr. PAPPAS is from the private sector. He is a businessman, he is a family man; he knows the importance of balancing your budget and what it means to American middle-class families.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman from Georgia for yielding. As he said, I come from the private sector in New Jersey, and in New Jersey one of the things that is unique is the State government is required to have a balanced budget, as are the 21 county governments, as are the 567 municipal governments, as are the 610 or 611 school districts, and as are each of the businesses and families within our great State.

While having come from the private sector, I also served as a county government official for almost 13 years and was president of our State Association of Counties, and for us that was something that was commonplace, having to adopt a budget each year, and balance it and live within our means, live within the means of the property taxpayers that would pay the bill, and the programs that we would initiate, if they were voluntary, were programs that we felt our taxpayers could support both through their financial support as well as programs that we felt that they felt were within the scope of our obligation to our citizenry.

And I am very excited, too, with you and so many of us here on both sides of the aisle to see a plan that will bring us to a balanced budget.

You know, for those of us that are football players, the last time that the New York Jets won their last Super Bowl was the same time that the Federal Government last balanced its budget, and for any of you here or any of you out there that may be watching us that may be Jets fans, you will remember that that was 1969.

Mr. KINGSTON. Joe Willie Namath.

Mr. PAPPAS. That is right, and that is an awful long time.

Mr. KINGSTON. Mr. FOX.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate my colleague taking this time to address very important issues to our colleagues about balancing the budget and adopting a bipartisan budget which will help American families and to make sure that those who are in the world of work will get a break.

The balanced budget we all have been seeking, Alan Greenspan says if we finally adopt it here, we are going to make sure we reduce our costs for mortgages, we will reduce the cost of the interest for car payments and also the interest of cost for college loans.

This legislation, the balanced budget, also calls for the CPI to be in accordance with the Bureau of Labor Statistics so our seniors will be protected by still having their COLA's and for pensions and for Social Security.

It also calls for the kind of tax relief American families need. We are talking about capital gains reduction for individuals and businesses.

Last time we had significant reductions of capital gains was the Reagan administration and the Kennedy administration, and in both cases we saw an increase in savings and investment and growth, and the $500-per-child tax credit, that would be a great assistance to American families.

So I am very much buoyed up by the fact that this budget looks like it is a step in the right direction, and I believe that because we are working on both sides of the aisle to get it achieved. I think this is certainly something that is a milestone that we have not had, as our colleague from New Jersey [Mr. PAPPAS] said, not since I graduated college.

Mr. KINGSTON. I did not know you were that old. I was just in junior high at the time.

Mr. Speaker, we have been joined by the gentleman, the only gentleman on the floor who represents a district outside of the eastern time zone, and so his folks are probably just finishing up dinner out in Arizona. But we have with us the gentleman from Arizona [Mr. HAYWORTH] who the gentleman from New Jersey [Mr. PAPPAS] may know is a former football player himself and a sports newscaster.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Georgia, and I am pleased to join with my colleagues in New Jersey and Pennsylvania.

Mr. Speaker, my colleague from Georgia is correct because in the great State of Arizona it is only about 8:20 in the evening, and so folks are getting home from work, and they have had a chance to sit down and read the newspaper and watch television news and visit with their families, maybe get the young ones to bed, and now they turn their attention to matters that affect their lives. And indeed, Mr. Speaker and colleagues, as I traveled around the Sixth District of Arizona this past weekend, holding town halls in the Globe-Miami area, the Cobra Valley, great resource-laden area, copper mines, down to Florence, AZ, and finally into the small town of Coolidge, AZ, we talked a great deal, and I listened a great deal to Arizona families and their concerns, and because those town halls occurred on Saturday, in the wake of Friday's historic announcement, there was a great deal of interest and excitement about the notion that finally in Washington, DC people quit playing the blame game and looked for solutions.

Mr. Speaker, I heard time and again from residents of the Sixth District of Arizona how pleased they were that Congress is getting down to business and working to enact a balanced budget. As our colleague from New Jersey pointed out, the last time that occurred was 1969, the year that Americans landed a man on the Moon. In fact, Mr. Speaker, the flag behind you was taken to the Moon and returned to this Chamber by our astronauts of Apollo 11, and it begs the question, if we could put a man on the Moon, then certainly, if we can reflect our national will in that way, certainly we can move to save money and to allow our citizens to hang onto their money because it is theirs, they earn it, send less of it here to Washington and transfer money, power, and influence out of

Washington, DC and into the several States, and, most importantly, keep money in the pockets of hard-working Americans for them to save, spend, and invest on their families as they see fit.

So that is what I bring back from the Sixth District of Arizona. To be certain, there is a lot of interest in working out the details, and I welcome this time with my colleagues from Georgia, New Jersey, and Pennsylvania, Mr. Speaker, as we talk more about tax relief for working families, as we talk about the dynamics of trying to work out this agreement, as we realize up front that challenges remain in the formulation of all the plans; but as we also welcome, even as we acknowledge, that no document crafted by man in this institution or any other can be considered perfect. Perhaps now we have at long last a meaningful start.

In fact if my colleague from Georgia will indulge me, let me simply read, Mr. Speaker, into the Record the first couple of sentences in the lead editorial in today's Washington Times. I think it sets the proper historical perspective.

Quoting now:

Unlike the detailed spartan and loophole-laden deficit reduction legislation passed by Congress in the 1980's outlining paths toward reaching a balanced budget within several years, the budget agreement struck last week between President Clinton and the GOP-controlled Congress appears sufficiently calibrated to reach its target. Most important, that goal is being achieved while providing for substantial tax cuts.

Mr. FOX of Pennsylvania. If the gentleman will yield, I think what is significant is that we are no longer talking in Washington about whether or not we are going to balance the budget, but when, and now we have an agreement on when: the year 2002.

Now as you say, the details, of course, are to be worked out, but what I think is also exciting, Mr. Speaker, about this new budget is it is going to offer some assistance to families who want to pass down a business to the rest of the family that follows them, that they inherit without the tax eating up all the hard-earned economic assistance that went into the business or went into the family farm, and this budget is going to have estate tax relief that families surely need out in agricultural areas and certainly in small businesses. That is what makes America great. By having this estate tax relief, I think this budget becomes an even brighter one for American people.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, let me ask the sportscaster here. The 1969 World Series, New York Mets?

Mr. HAYWORTH. Mr. Speaker, the New York Mets lost in last place that year.

Mr. KINGSTON. Was it 1970 that they came back?

Mr. HAYWORTH. They defeated the Baltimore Orioles.

Mr. Speaker, there are some denizens of this area. Indeed, as we look at the Speaker pro tempore, Mr. GILCHREST, tonight and realize that he hails from the great State of Maryland, that may be something that he would rather forget, but knowing it was the year of the Miracle Mets and sadly, ironically, the last year of what should be commonplace instead of miraculous, and that is a balanced budget.

But the gentleman from Georgia [Mr. KINGSTON] is quite right, the Mets defeated the Orioles in that World Series 1969 that led to a great book, "The Year The Mets Lost Last Place."

Mr. KINGSTON. The distinguished Speaker pro tempore from Maryland sitting there might not like it, but I think it is important for my colleagues to realize how far back in time we are talking about.

I will give you an example. My dad was a tight-fisted college professor and, raising 4 kids, did not want to spend a lot of money on a car for the teenagers. He bought a 1971 Ford Maverick in 1971. The sticker price on that car, as my colleagues may remember, was $1,995. That is what you could get a Ford Maverick for in 1971.

That was a long, long time ago. Driving that Maverick down the road, you could fill up the tank at 25 to 28 cents a gallon. I think it is important for everyone to realize how far back in time we are going since the budget was balanced. Neal Armstrong was walking on the Moon that year.

But let me ask this, let us move ahead. We have had budget deals. We had lots of them during the Reagan administration. We had the Bush administration's budget deal. We had one with Clinton. This one is different in that it has so much of the savings and tax cuts now. The benefits are now.

I have said to the folks back home that New Year's Day, actually January 2 every year, we promise we are going to lose weight. We say, okay, now is the time and we make that New Year's resolution and we feel real good about it. But then come February there is a wedding, and come March there is something. March, of course, in Savannah we have St. Patrick's Day. Everybody is going to resume festive activities then. But as the year goes on, you get a little bit further away from your New Year's resolution and you are not losing that weight.

I think that it is important for us to realize that, as significant as that decision is, the resolution on May 2 to go on a diet once and for all to balance the budget, it still is going to take discipline. We do not just celebrate and go home. That is one thing the four of us have learned as relative newcomers to Congress is that this is the first step.

The Speaker and the leaders have all acknowledged that this budget agreement is significant, but do not go home. You have to watch the process and you have to push because there is going to be a lot of discipline and there will be lot of times down the road where the special interest groups come to us in June, in July, in August during the appropriations cycle and say, just a little bit more here, another billion here, another billion there, a new entitlement; and we are going to have to have the discipline to say, no, we cannot do that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman would yield, a point that I think is important here, and we would be less than candid with the American people, Mr. Speaker, if we did not take into account the cynicism, yes, even the skepticism that greets this agreement.

Indeed, this morning in the lead editorial of the Arizona Republic in my great State, there was voiced in the editorial some skepticism about the plan. But Mr. Speaker, as the American people join us tonight, I think it is important that they realize that the proof is in our most recent history, that with this Congress and the change in majority status here beginning in 1995 with the 104th Congress, the proof was in the pudding, the proof was in the actions.

For example, the elimination of almost 300 wasteful and duplicative government programs, in the process, a savings of some $53 to $54 billion. So my colleague from Georgia, Mr. KINGSTON, is correct; much remains to be done.

□ 2330

The other thing that makes this different, what was pointed out in the lead editorial of the Washington Times this morning, is that the loopholes are not there. Indeed, the challenge now becomes to craft a document, the details of which will be worked out, of course in consultation with the minority, but with the special philosophical underpinnings of our new majority in the Congress of the United States to adhere to a simple notion that is the following: This wealth does not belong to the Government, it belongs to the American people who voluntarily send their tax dollars to Washington.

It is our job to be a good steward of those tax dollars, and to make sure that we have a government that operates within sound fiscal bounds, and at the same time we do so on less of the people's money so that money stays in their pockets.

As the first Arizonan in history to sit on the Committee on Ways and Means, I look forward to a very busy time in the next several weeks as we work out the details of tax reductions in capital gains, perhaps the elimination, or certainly a drastically reduction in what we could more accurately call the death tax that my colleague from Pennsylvania talked about.

As we look at that $500 per child tax credit, so vital to American families

who need to save, spend and invest more of their hard-earned money and send less of it here to Washington, that is the challenge before us, even as we work out the details, not with legislative loopholes or some sort of sleight of hand, but we get about the hard work of the details of governance, which is why we were sent here in the first place.

Mr. FOX of Pennsylvania. Will the gentleman yield?

Mr. HAYWORTH. Mr. Speaker, I gladly yield to my friend from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, we are very proud that the gentleman is on the Committee on Ways and Means so that he can exert his considerable leadership on some important reforms, not least of which would be to reform the IRS. Of all of the districts, for that matter Pennsylvania, my colleague knows the way the law is written today, the burden is on the taxpayer, that says that the taxpayer is presumed to be guilty that they did not file or that they did not remit correctly. And instead I think, and I think many of us do and our constituents back home think that burden of proof should be turned around.

Some of the abuses that have taken place to some of our constituents have to be addressed. And I hope that the Committee on Ways and Means, working on reforms to balance the budget and making sure we have bipartisan initiatives that help the people, will also look into how we can make that agency work more responsibly.

Mr. HAYWORTH. Mr. Speaker, I think that is a point well taken, and I would also add that let us give credit where credit is due. Indeed the leadership on this issue comes from both sides of the aisle. Our good friend from Ohio, [Mr. TRAFICANT], has been insistent on this type of legislation, and I do not think we can overstate this to the American people too emphatically.

As we know, and my colleague from Pennsylvania being a distinguished attorney, I do not hold that against him, but it has been a basic tenet of Western jurisprudence that the burden of proof does not rest with the accused; instead, with those who make the accusations. Yet, we have turned that in tax law to where it is completely reversed, and some would say that reverse indeed is a perversity of the system, for when one is called in and questioned about one's returns, the burden of proof falls not on the Internal Revenue Service, instead it falls on the accused taxpayer. Indeed, there is not the presumption of innocence; instead, there is a presumption of guilt.

So I salute my colleague from the other side of the aisle, the gentleman from Ohio [Mr. TRAFICANT], for being a leader on this issue. And I champion the fact that here again is another example, despite the tendencies and temptations of one-upsmanship and snappy rejoinders and spinarama that emanates out of Washington, DC, there are people of goodwill from both major political parties willing to put that aside and work for what is best for the American people.

Rest assured, there will be differences, and indeed we should champion those differences here in this, what one of our forebears called this temple of democracy. But with that in mind, let us work together to deal with reforming the IRS, changing the IRS as we know it, working hard to put money and allow American taxpayers to keep that money in their pocket and rein in the size and influence of this behemoth we now call the Federal Government. I know our colleague from New Jersey has thoughts on that as well.

Mr. PAPPAS. Mr. Speaker, I could not agree with the gentleman more. Earlier I was here standing in the well and talking about Tax Freedom Day. That is just a couple of days away, and each year it seems to go later and later and later. In my State it is May 11, whereas nationwide it is May 9. Some people in this Chamber and around the country feel that we cannot cut taxes and balance the budget at the same time. I am of the opinion that we can do both and I think that we do need to cut taxes to spur economic growth, but also to force us here in the Congress to reduce spending, and I think that that is the only way that we are going to be able to do that.

A lot of people that may be watching may be saying, what does balancing the budget do for me, and what does it do for my family? The Concord Coalition, which is a very well-respected organization, had done an analysis that I am sure in all congressional districts, but they did one for the 12th District of New Jersey, which I represent.

Their research showed that the average home in the 12th District of New Jersey, the central part of the State, costs approximately $205,200. If that were borrowed, 100 percent mortgage, which is unusual, if all of it were borrowed with 8 percent interest over a 30-year mortgage, the mortgage holder would pay $1,505.68 a month. A 2-percent reduction in interest rates on a 30-year mortgage, which Dr. Greenspan and so many economists around the country have said would result from a balanced budget, 2-percent reduction in interest rates over that 30-year period of time would result in a $1,230.28 payment, a savings of $275.40 a month. If that same mortgage holder, that same homeowner, that same family put that savings into a bank account earning 4.5 percent interest, a typical rate of return, over that same period of time, that would turn into $209,134.95. That is enough to buy another house, put a kid through college, put several kids through college.

Mr. HAYWORTH. I just want, for purposes of emphasis, to ask my colleague from New Jersey to read that total again, assuming the savings with a 2-percent reduction in interest rates. This is for an average family owning a home with a 30-year fixed mortgage in your district in New Jersey, what would that savings be?

Mr. PAPPAS. On a monthly basis, $275.40, and over a 30-year period at 4.5 percent interest, $209,134.95, a significant amount of money.

Mr. HAYWORTH. Indeed, and I think it is very important, Mr. Speaker as we are here, to thank the gentleman from New Jersey for giving us a tangible answer of why balancing the budget is so vitally important. This is not some sort of esoteric economic goal for its own sake. It is not the notion of in the realm of cosmic reality trying to put our house in order because of a love of symmetry.

The fact is, it can help families save more, invest more, plan for their own futures, and that is why it is vital. Every family in this Nation has an economic stake in seeing a balanced budget, not because of some far-flung concept, but because of the glaring realities of the challenges of life that they will confront as we prepare to move into the next century.

While there are some cynics who would say of economists, you could lay all economists end to end and still never reach a conclusion, we are compelled to take a look at the testimony of Dr. Greenspan when he testified in the 104th Congress in front of the Committee on the Budget and when he said he was absolutely convinced that a balanced budget would lead to a genuine reduction of up to 2 full percentage points in the prime interest rates.

Mr. KINGSTON. Mr. Speaker, it is interesting that we talk about this. If we think about the interest that we are spending right now, as the gentleman knows, the second largest expenditure in our national budget each year is interest on the $5.1 trillion national debt.

Now, we are not paying down the principal, we are only paying the interest. That interest costs a little over $600 per person. Middle class families, a family of four, is paying about $2,400 a year in taxes simply on the interest; $2400 a year would pay for several months' mortgage payments. It would pay for lots and lots of groceries, depending on how many kids one has. If one has teenagers one could probably count on it getting through the week or something like that. But it would pay for a nice vacation, it would pay for a secondhand car, or at least a good portion of it, and that would just be if one could get rid of that one item on the budget.

Now, what this is going to do is this is not going to pay off the debt, but what it will do is say that the debt is not going to get bigger so that interest portion will not get bigger and bigger every single year.

We still have lots of unfinished work, but what this does is it gives us a fighting chance, gives our children a fighting chance on that $5.1 trillion debt.

One of the definitions that I have read lately on $1 trillion is, if we had $65 million in a boxcar, how long would the train have to be with boxcars full of $65 million in order to equal to $1 trillion. If my colleagues want to guess, 240 miles long to get to $1 trillion, and our debt is $5 trillion. Every single school kid that gets on the steps of the Capitol or that we see in the rotunda is going to have to pay off that debt during their lifetime. It is the equivalent of taking our children out to eat, having a big meal and passing them the tab on the way out the door. It is not fair.

Mr. Speaker, this balanced budget agreement gives our children a fighting chance against that massive debt. So I think it is a step in the right direction, and it is the initial step.

Mr. PAPPAS. Mr. Speaker, if I could just mention, 240 miles, that is a little bit longer distance from my home in New Jersey to Washington, D.C. And every time I travel back and forth I will have to think about that and recognize that, when we look at the vast expense of our Nation, 240 miles is a relatively short period of time, but I travel it twice a week, and I will have to remember that. It is something very, very tangible that people can understand.

Kids born today have a $200,000 debt that they are responsible for.

Mr. KINGSTON. Mr. Speaker, it was $187,000 in the 104th Congress, the other gentleman will know.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentleman will yield, I think it is important to also note about this budget, not only are we going to have the tax reductions we talked about, a balanced budget that the gentleman from New Jersey [Mr. PAPPAS] has outlined which is very important, but we are also going to have additional educational assistance in this form of assistance with grants and loans so that every student has a chance to go to college. I think that is certainly the kind of bipartisan effort that this Congress has made with the White House in order to bring about a meaningful budget.

Mr. HAYWORTH. Mr. Speaker, I think that is a valuable note, but also I think the challenge is for us to find those good ideas to enact into law that can help empower educators on the local level, and I am glad my colleague from Pennsylvania, Mr. FOX, brought this up.

It will be my honor on Saturday to offer the commencement address at my alma mater. North Carolina State University was created in essence by an act of Congress. The Federal Land Grant Act in the 1860's, the Morrill land grant set aside federally controlled land to several States for the establishment of institutions of higher learning so that those citizens who, in the past had not had an opportunity for a college education, could receive an education.

□ 2345

I think it is vital, indeed, borne out of experience in the 104th Congress, to take a look, commensurate with our conservative principles of holding the line on spending, recognizing the power of the several States, realizing that education cannot be micromanaged from Washington, and mindful of that historic act I am going to present in the commencement address, and indeed, I have spoken with majority leadership both in the House and Senate, and the chairman of the committee of jurisdiction here in the House, what I would call the Federal Land Grant Act for Elementary and Secondary Schools here in the United States.

Let me tell the Members, it is borne of a practical experience in the 104th Congress. The small town of Alpine, AZ, almost located on the border of Arizona and New Mexico, was confronting a crisis because the tax base in that area has essentially been eviscerated through the actions of some Federal judges to stop timber harvests, and through several other actions, the tax base has shrunk.

At the same time, there is the challenge of holding the line, or perhaps even, candidly, a decrease in what we call in legislative parlance PILTS, payment in lieu of taxes, in so many areas that have vast Federal lands; that working with the people of Alpine, I was able to enact legislation in the closing days of the 104th Congress, with the help of my colleagues who were here at that point in time, to convey 30 acres of federally controlled land to the Alpine school district for a significant savings when it came to the construction of new school facilities.

To get that done, we had to follow almost, I would not call it a crazy quilt, but it was a path that is seldom followed to get this done. So it will be my intent, as I will outline in the commencement address on Saturday, to offer in this body the Federal Land Grant Act for Elementary and Secondary Schools, so those rural school districts from coast to coast will have an opportunity to save funds, to have land conveyed voluntarily at no cost to the Federal Government for those lands that are already held in trust by the United States for these local school districts; not to micromanage the curriculum from Washington, not to dictate the policies, what should go on in the classroom, but simply as another tool, commensurate with our constitutional authority, and also the examples of history, to empower people to make local decisions in areas as important as education.

Indeed, I am indebted, I am indebted to the people of Alpine, AZ, who stepped forward with a commonsense idea; and in so doing, yes, to help their local community, offered a prototype for other school systems around the country. I am indebted to my alma mater for an education that gives us a sense of history that can be applied to the problems we face today, and on into the next century.

So let us again call, mindful of our historical legacy, for this Federal land grant program for elementary and secondary schools, so that we can empower these local communities, who are desperately in need of holding onto their own funds. And it is that type of thinking, I would submit, Mr. Speaker, from people of good will of both sides of the aisle that can make a difference as we prepare for the next century.

Mr. KINGSTON. Mr. Speaker, I believe that the gentleman is correct in that we are going to move in that direction. I think we are going to find lots of ways to kind of creatively get out of the bureaucratic entanglement that so many of our communities have gotten into, and so many of these I would say disappointments which the government has caused to local economies and people and so forth.

The gentleman had mentioned some of the savings to the middle class through college education opportunities and so forth. One of the very practical and I hope immediate measures is this $500 per child tax credit that is in the budget. The gentleman from Pennsylvania [Mr. FOX] mentioned it earlier. It is something that American middle-class families need.

We talk so often about let us do something for the children. Why do we not just let the parents keep more of the money that they are earning and let them do that for the children? If you have a family of two, that is $1,000 a year that you can spend for groceries, for clothes, for textbooks, for whatever your child's needs are. That is something for the American middle class that is overdue to them.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentleman will continue to yield, I would like to take off on the point that our good friend, the gentleman from Arizona, just raised.

First of all, we appreciate the gentleman's leadership and creativity on educational initiatives, but we also agree that it is left to the States to determine when Federal money goes forward for transportation, for books or school lunch; that is where the 501 school districts in my own State of Pennsylvania would determine how that is used, and as the gentleman from New Jersey [Mr. PAPPAS] said earlier, the 600-plus school districts from his own State.

One of the things we can do with higher ed is restore the deductibility on higher education. When the employer provides an educational assistance, that should be a tax benefit for

the employer and not make it a gift for the students, so there is a real incentive to do that higher ed. And also make deductibility for parents who provide the payments for college loans, to give them the tax credit, because these kinds of ideas are not Republican or Democrat, they are good for America.

So I think the gentleman's initiatives, the gentleman from Arizona [Mr. HAYWORTH], are certainly a step in looking at the Government and saying we do not have to do it the way we did yesterday, let us look at it differently; what can we do for our secondary education and our primary schools?

Mr. HAYWORTH. I am struck by the energy and the enthusiasm, the creativity of those who join us in this 105th Congress: our colleague, the gentleman from New Jersey [Mr. PAPPAS], and also one of your colleagues, the gentleman from Pennsylvania [Mr. PITTS], who outlined I think as a former school teacher really what I call the human equation when it comes to Federal dollars involved in education, as they exist today. Because our good friend, the gentleman from Pennsylvania, has come up with a notion of a resolution for dollars to the classroom, saying that henceforth it should be our goal to be mindful of the human equation; for the 6 to 8 percent of funding that the Federal Government supplies to school districts around the Nation, 90 percent of that money should get into the classroom to help teachers teach and help students learn, and 10 percent should be reserved for bureaucrats and buildings and the cost of administration, a 9 to 1 difference.

Because our initiative should be focused upon local control, upon sending those resources to where those resources can make the most difference, and, in the case of the proposed land grant legislation that I hope to introduce shortly, even finding ways where money does not have to be spent, per se, but we can use those historical examples that have served us well educationally in the past to offer hope for the future.

Mr. PAPPAS. Mr. Speaker, one of the things that we have not touched upon, and I know our time is just about up, I just wanted to mention, each of us have parents or grandparents who are dependent upon the Medicare program, and so many of our constituents. Certainly in portions of my district the senior citizen population is quite significant, and their needs are something that I have always tried to attend to.

Prior to my election to Congress I was a member of our county board of freeholders. One of my areas of responsibility was our county office on aging and the programs for our elderly citizens. That is a portion of our population that is growing at a greater rate than younger folks.

This agreement that we are all here to talk about and to help educate people in our country about, and I hope they are as excited about it as we are, one of the important parts of this is entitlement reform, and an effort to preserve Medicare beyond 2001 or 2002, when the trustees of the Medicare program have said it is going to go broke. It adds about 10 years to the life of that program.

I have a 94-year-old grandmother. We are going to be celebrating Mothers Day in just a few days. I am very fortunate to have her here and be able to celebrate that with her. People like her will benefit from it, and if I know her and the kind of shape that she is in come 10 years from now, she will probably be saying, make sure you do something about Medicare.

□ 2355

Mr. KINGSTON. Mr. Speaker, we have about a minute each to wrap up.

Mr. FOX of Pennsylvania. Mr. Speaker, I want to thank the gentleman from Georgia [Mr. KINGSTON] for taking out this hour so we have a chance to discuss with our colleagues about the importance of balancing the budget, making sure that we move along in a bipartisan fashion. We are no longer having Government shutdowns. We are making sure that the country moves forward while still having fiscal responsibility, having educational opportunity, continuing environmental protection, but making sure that the American family has a chance to retain more and more of the money they earn and less of it going to Washington by regulation, less of it going to Washington in duplicative spending from the State government or the local government.

I think this is certainly an idea whose time has arrived in Washington, to balance our budget just like State governments do, just like county governments do and school governments. The American people have to balance their budget each week, and it is about time Congress put that interest payment off the American people and make sure we keep more money for them, for their own necessities of life, and not have Washington dictate to them how their money is spent.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Georgia for yielding to me and my colleagues from Pennsylvania and New Jersey for joining us tonight.

It is obvious to the American people, while challenges confront us in working out details and, indeed, some would say those details may from time to time bedevil us, we do have a basic blueprint for changing the culture in Washington, for taking a step, regardless of party label, to transfer money, power, and influence out of this city and back into the hands of the American people.

And with that and with the framework of this historic agreement, over a 10-year period of time, one-quarter of a trillion dollars in tax relief, in tax cuts for the American people, whether for job creation and economic expansion or with a drastic change to the unfair death tax or, importantly, early on now this $500 per child tax credit, governed by this simple notion: The money does not belong to the government. It belongs to the people, and the people should hang onto more of their own money to save, spend, and invest and send less of it here to this city.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman from Georgia for initiating this and for allowing us to participate. The American people want us to balance the budget. That is why they sent the gentleman from New Jersey [Mr. PAPPAS], and I think that is why they sent each of my colleagues as well.

What excites me about this, besides that, we have real numbers that are going to bring this budget into balance by the year 2002, permanent tax relief; the estate tax reform that will allow so many family owned businesses and farms in districts such as mine to be able to be passed down from one generation to the next. There are so many people, men and women in our country and our districts that have worked all of their lives to build a business or to maintain a farm, to be able to pass that legacy on to their children.

Unfortunately, the existing Tax Code prevents many of those folks from passing something on to their children and then for them to pass it on to their grandchildren. I am excited and honored to be a part of this Congress that is going to enact that kind of significant and permanent tax relief for our citizens.

Mr. KINGSTON. Mr. Speaker, the gentleman from Pennsylvania [Mr. FOX], the gentleman from New Jersey [Mr. PAPPAS] and the gentleman from Arizona [Mr. HAYWORTH] and I close with this, I want to submit it for the RECORD also, an op-ed from the Washington Times by Tod Lindberg. He says:

> My rule of political progress goes something like this: First you lock in everything you can get; then you denounce it as grossly inadequate. If you get the order wrong, the perfect becomes the enemy of the good, and in an unholy alliance with the bad, the perfect crushes the good every time. Therefore, I like the budget deal. Can I imagine a better one? Very easily; but I have no particular reason to think that my musings are going to be enacted by Congress and signed by the President.

In short, the deal is the only game in town. What it leads us to, Mr. Speaker, is a smaller government, lower spending, lower taxes and a balanced budget and that, Mr. Speaker, is a very good start. Mr. Speaker, I include for the RECORD the editorial to which I referred:

[From the Washington Times, May 7, 1997]

THE ART OF THE BALANCED BUDGET DEAL

(By Tod Lindberg)

My rule of political progress (which is not original to me) goes something like this: First, you lock in everything you can get; then you denounce it as grossly inadequate. If you get the order wrong, the perfect becomes the enemy of the good—and in an unholy alliance with the bad, the perfect crushes the good every time.

Therefore, I like the budget deal. Can I imagine a better one? Very easily; but I have no particular reason to think my musings are going to be enacted by Congress and signed by the president into law any time soon. The deal is the only game in town.

The budget deal before us would: 1) balance the budget by 2002; 2) do so while cutting taxes. The past four years have seen a huge shift in the terms of the fiscal debate in this country: from whether to increase taxes or not in order to reduce the deficit en route to a balanced budget (the animating principle of the disastrous 1990 budget deal and President Clinton's 1993 deficit reduction package, which passed Congress without a single Republican vote), to whether to cut taxes or not while balancing the budget—two points the president is now prepared to support. This deal codifies the latter two in law; to me, this is progress.

I'll leave the liberal arguments against the deal to the other side. But here are some notes on some of the conservative arguments against it.

It allows discretionary spending to grow. So it does, and that is not desirable. But there are now caps, and the caps prevent domestic spending growth from even keeping pace with inflation. That means real declines over time.

The spending caps become floors. They may; the task of fiscally conservative members of Congress will be to keep making the case that these caps are too high—against liberals who will say they are too low. But the conservatives would have had to make exactly the same case in the absence of this deal, too.

The reforms in Medicare are just price controls. Actually, so's the current system; nothing new there. We still need Medical Savings Accounts in Medicare and elsewhere. But surely there are some savings that can be extracted from the current system short of MSAs. Now we will see.

The deal doesn't reform Medicaid significantly. True; but this is a GOP problem as well as a Democratic problem. Governors from both parties hated the per-head caps that were under discussion. Medicaid needs reform no less (but no more) than it did before the deal.

The tax cut is small. Yep. But it's a tax cut, one that will apparently include a reduction in the capital gains rate from its current level (which is where it was when Jimmy Carter left office). The per-child tax credit, though not meaningful in terms of promoting economic growth, will mean a lot to the middle-income families who qualify for it. As for Mr. Clinton's favored college tuition tax credits, they are merely foolish, not dangerous. And none of the other tax cuts happens without his signature.

It enshrines government in its current bloated size and scope. Some folks seem to think that this is the end of politics for the duration of the agreement. That's simply wrong. The problem is that Republicans weren't able to articulate their thoughts on the size and scope of government in a fashion that voters found so compelling they were willing to turn over both the legislative and executive branches to the GOP. Conservatives will not be hindered in making that case by an agreement that says government will live within its means while cutting taxes.

It's "balanced-budget liberalism." I don't think there is such a thing as balanced-budget liberalism. If the budget is balanced, liberalism has mutated into a less virulent species—by moving to the right. I think that merely shifts the center to the right, which is to the advantage of conservatives.

It relied on a $225 billion cash infusion thanks to new revenue estimates. Less than people think. Of that $225, about $108 billion went toward inserting (tougher) CBO revenue projections. That's not spending. About $20 billion of it went toward avoiding a legislative fix of the consumer price index, leaving a smaller fix possible under current law in the hands of the Bureau of Labor Statistics (I'd like to see CPI fixed altogether, but in the context of tax relief). About $10 billion went to keep from fixing Medicaid, and (yippee) we get $7 billion more in transportation. Bike paths for everybody! That leaves $80 billion—a nice insurance policy.

Defense is getting cut too much. Yes. But the sentiment to increase it is not yet there. Proponents will need to make the case more urgently.

Mr. Clinton will be weaker, and the deal terms will be better, as the scandals unfold in the summer. Oh, promise me. Anyway, if that's true, Republicans ought to take the occasion then to stuff something down his throat he hasn't swallowed here. MSAs, maybe?

Birth of an entitlement: KiddieCare. Yes, that's quite bad. No point in pretending otherwise. Question: If there is no deal, can it be stopped? And does it really trump a balanced budget with tax cuts?

Perfect? Hardly. Progress? Definitely. After all, Rome wasn't burned in a day.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, Wednesday, May 7, after 7:30 p.m., on account of illness.

Mr. FILNER (at the request of Mr. GEPHARDT) after 3:30 p.m. today, and Thursday, May 8, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. HULSHOF, for 5 minutes, on May 14.

Mr. BOB SCHAFFER of Colorado, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mr. PAPPAS, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, on May 8.

Mr. MCINNIS, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at the request of Mr. STUPAK) to revise and extend her remarks and include extraneous material:)

Mrs. KENNELLY of Connecticut, 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. MCINNIS to revise and extend their remarks and include extraneous material:)

Mr. ROGAN.

Mr. EVERETT.

Mr. BONO.

Mr. GREENWOOD.

Mr. JENKINS.

Mr. GILMAN.

Mr. MCCOLLUM.

Mr. EWING.

Mr. HOSTETTLER.

Mr. MANZULLO.

(The following Members (at the request of Mr. STUPAK to revise and extend their remarks and include extraneous material:)

Mr. KUCINICH.

Mr. KENNEDY of Rhode Island.

Mr. BOYD.

Mr. FAZIO of California.

Mr. HAMILTON.

Mr. STARK.

Mr. TRAFICANT.

Mr. WAXMAN.

Mr. KENNEDY of Massachusetts.

Ms. CARSON.

Ms. JACKSON-LEE of Texas.

Mr. MCGOVERN.

Mr. POSHARD.

Mr. TORRES.

Ms. SLAUGHTER.

Mr. BENTSEN.

Mr. ACKERMAN.

Mr. WISE.

Mr. LEVIN.

Mr. LAFALCE.

Mr. HINCHEY.

Mr. GEJDENSON.

Ms. EDDIE BERNICE JOHNSON of Texas.

Mr. ENGEL.

Mr. LANTOS.

Mr. GUTIERREZ.

Ms. PELOSI.

Mr. FORD.

Mr. COYNE.

Mr. KLINK.

Mr. RUSH.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 midnight), the House adjourned until tomorrow, Thursday, May 8, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from

the Speaker's table and referred as follows:

3153. A letter from the Administrator, Cooperative State Research, Education, and Extension Service, transmitting the Service's final rule—Small Business Innovative Research Grants Program; Administrative Provisions [7 CFR Part 3403] (RIN: 0524–AA08) received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3154. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize debt buybacks and sales for debt swaps of certain outstanding concessional obligations under title I, Agricultural Trade Development and Assistance Act, pursuant to 31 U.S.C. 1110; to the Committee on Agriculture.

3155. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Paraquat; Pesticide Tolerances for Emergency Exemptions [OPP–300479; FRL–5713–2] (RIN: 2070–AB78) received April 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3156. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clomazone; Pesticide Tolerances for Emergency Exemptions [OPP–300481; FRL–5713–6] (RIN: 2070–AB78) received April 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3157. A letter from the General Counsel, Department of the Navy, transmitting a draft of proposed legislation to waive certain provisions of title 10, United States Code, relating to the appointment of the Chief of Chaplains of the U.S. Navy; to the Committee on National Security.

3158. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize debt paybacks and sales for debt swaps of certain outstanding concessional obligations under the Foreign Assistance Act of 1961, pursuant to 31 U.S.C. 1110; to the Committee on International Relations.

3159. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize debt relief for poor countries, pursuant to 31 U.S.C. 1110; to the Committee on International Relations.

3160. A letter from the General Counsel, Department of the Treasury, transmitting the Department's final rule—Maintenance of and Access to Records Pertaining to Individuals [49 CFR Part 10] (RIN: 2105–AC57) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3161. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Intergovernmental Personnel Act Mobility Program [5 CFR Part 334] (RIN: 3206–AG61) received April 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3162. A letter from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Catch Specifications [Docket No. 961204340–7087–02; I.D. 110196D] (RIN: 0648–AI13) received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3163. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Reductions [Docket No. 961227373–6373–01; I.D. 042397A] received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3164. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast and Western Pacific States; West Coast Salmon Fisheries; 1997 Management Measures [Docket No. 970429101–7101–01; I.D. 042497B] (RIN: 0648–AJ09) received May 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3165. A letter from the Acting General Counsel, Department of Justice, transmitting the Department's final rule—FY 1996 Police Corps Program (Office of Community Oriented Policing Services) [28 CFR Part 92] (RIN: 1105–AA47) received May 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3166. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Validity of Nonimmigrant Visas (Bureau of Consular Affairs) [Public Notice 2536] received April 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3167. A letter from the Assistant Secretary of the Army (Civil Works), the Department of the Army, transmitting a report on the food damage reduction project for Las Cruces, NM, pursuant to Public Law 104–303, section 101(a)(20) (110 Stat. 3665) (H. Doc. No. 105–81); to the Committee on Transportation and Infrastructure and ordered to be printed.

3168. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AeroSpace Technologies of Australia Limited (formerly Government Aircraft Factories), Nomad Models N22S, N22B, and N24A Airplanes (Federal Aviation Administration) [Docket No. 95–CE–31–AD; Amdt. 39–10004; AD 97–09–08] (RIN: 2120–AA64) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3169. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Classified Information: Revision [Docket No. OST–96–1427] (RIN: 2105–AC51) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3170. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Goffs, CA (Federal Aviation Administration) [Airspace Docket No. 97–AWP–7] (RIN: 2120–AA66) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3171. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Fees for Air Traffic Services for Certain Flights Through U.S.—Controlled Airspace; Technical Amendments (Federal Aviation Administration) [Docket No. 28860; Amendment No. 187–8] (RIN: 2120–AG17) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3172. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace; Dallas Addison Airport, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–34] received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3173. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Killeen, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–35] received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3174. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Weslaco, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–36] received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3175. A letter from the Chief Counsel, Bureau of Public Debt, transmitting the Bureau's final rule—Offering of United States Savings Bonds, Series EE [Department of the Treasury Circular, Public Debt Series No. 1–80] received May 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3176. A letter from the Assistant Commissioner (Examination), Internal Revenue Service, transmitting the Service's final rule—Mining Industry Excess Moisture [Coordinated Issue] received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3177. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Long-Term Care Services and Insurance [Notice 97–31] received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3178. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize certain programs of the Federal Aviation Administration, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Transportation and Infrastructure and Science.

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. SHUSTER. Committee on Transportation and Infrastructure. House Concurrent Resolution 49. Resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby (Rept. 105–90). Referred to the House Calendar.

Mr. SHUSTER. Committee on Transportation and Infrastructure. House Concurrent Resolution 66. Resolution authorizing the use of the Capitol Grounds for the 16th annual National Peace Officers' Memorial Service (Rept. 105–91). Referred to the House Calendar.

Mr. SHUSTER. Committee on Transportation and Infrastructure. House Concurrent Resolution 67. Resolution authorizing the 1997 Special Olympics Torch Relay to be run

through the Capitol Grounds (Rept. 105–92). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BONO (for himself and Mr. GOODE):

H.R. 1542. A bill to provide certain immunities from civil liability for trade and professional associations; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 1543. A bill to amend the Immigration and Nationality Act to permit certain nonimmigrant aliens to study in publicly funded adult education programs if the alien provides reimbursement for such study; to the Committee on the Judiciary.

By Mr. GEKAS (for himself and Mr. FRANK of Massachusetts):

H.R. 1544. A bill to prevent Federal agencies from pursuing policies of unjustifiable nonacquiescence in, and relitigation of, precedents established in the Federal judicial circuits; to the Committee on the Judiciary.

By Mr. GUTIERREZ:

H.R. 1545. A bill to amend the Immigration and Nationality Act and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to eliminate the numerical limitations relating to cancellations of removal and suspensions of deportation; to the Committee on the Judiciary.

By Mr. HAMILTON (for himself and Mr. COMBEST):

H.R. 1546. A bill to provide for a system to classify information in the interests of national security and a system to declassify such information; to the Committee on Government Reform and Oversight, and in addition to the Committee on Intelligence (Permanent Select), 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. HEFLEY:

H.R. 1547. A bill to provide for notification regarding crimes committed by diplomats; to the Committee on International Relations.

By Mr. PORTER:

H.R. 1548. A bill to suspend until January 1, 2001, the duty on Diiodomethyl-p-tolylsulfone; to the Committee on Ways and Means.

By Mr. RAMSTAD (for himself, Mr. KLECZKA, Mrs. EMERSON, Mr. CAMPBELL, Mr. CASTLE, Mr. DAVIS of Virginia, Mr. EHLERS, Mr. FROST, Mr. GILCHREST, Mrs. JOHNSON of Connecticut, Mr. KLUG, Mr. LAZIO of New York, Mr. MCNULTY, Mr. NETHERCUTT, Mr. WALSH, Mr. WAMP, and Mr. WOLF):

H.R. 1549. A bill to establish a commission to be known as the Harold Hughes-Bill Emerson Commission on Alcoholism; to the Committee on Commerce.

By Mr. SCARBOROUGH (for himself, Mr. HOSTETTLER, Mr. TRAFICANT, Mr. KING of New York, Mr. CUNNINGHAM, Mr. WATTS of Oklahoma, Mr. SOUDER, Mr. HASTINGS of Washington, Mr. KIND of Wisconsin, and Mr. NEY):

H.R. 1550. A bill to provide for the withdrawal of most-favored-nation status from Iran, Iraq, Libya, and Syria, and to provide for the restoration of such status with respect to Syria if the President determines that Syria is participating in the Middle East peace process in good faith; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 1551. A bill to amend title 23, United States Code, to ensure that local officials are permitted to participate in the selection of certain surface transportation program projects undertaken in areas of less than 50,000 population, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.J. Res. 77. Joint resolution proposing an amendment to the Constitution of the United States to provide that Federal judges be reconfirmed by the Senate every 10 years; to the Committee on the Judiciary.

By Mr. BARCIA of Michigan (for himself, Mrs. KELLY, Mr. BAKER, Mr. BILIRAKIS, Mr. BOSWELL, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. BURR of North Carolina, Mr. CAMP, Mr. COBLE, Mr. COSTELLO, Mr. CRAMER, Mr. DAVIS of Florida, Mr. DAVIS of Virginia, Mr. DINGELL, Mr. DOOLEY of California, Mr. EDWARDS, Mr. EHLERS, Mr. EVANS, Mr. FAZIO of California, Mrs. FOWLER, Mr. FROST, Mr. GILMAN, Mr. GOODE, Mr. HAYWORTH, Mr. HOEKSTRA, Mr. HYDE, Mr. ISTOOK, Mrs. JOHNSON of Connecticut, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KING of New York, Mr. KLECZKA, Ms. KILPATRICK, Mr. KNOLLENBERG, Mr. LEVIN, Mr. LIPINSKI, Mr. LUTHER, Mr. MCHALE, Mr. MICA, Ms. MOLINARI, Mr. PASTOR, Mr. PRICE of North Carolina, Mr. QUINN, Mr. RAMSTAD, Mr. ROHRABACHER, Mr. ROTHMAN, Mr. ADAM SMITH of Washington, Mr. SMITH of Michigan, Ms. STABENOW, Mr. STUPAK, Mr. TANNER, Mrs. TAUSCHER, Mrs. THURMAN, Mr. UPTON, Mr. WALSH, Mr. WELDON of Florida, and Mr. WELLER):

H. Con. Res 75. Concurrent resolution expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences; to the Committee on the Judiciary.

By Mr. SHERMAN (for himself, Mr. BOUCHER, Mr. FROST, and Mrs. CLAYTON):

H. Con. Res. 76. Concurrent resolution expressing the sense of the Congress that any capital gains exclusion on the transfer of a primary residence enacted by the 105th Congress should take effect on January 1, 1997; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

60. By the SPEAKER: Memorial of the Legislature of the State of Oklahoma, relative to House Concurrent Resolution No. 1013 memorializing Congress to request the Secretary of the U.S. Department of Agriculture to take certain action regarding the Export Enhancement Program; and directing distribution; to the Committee on Agriculture.

61. Also, memorial of the Legislature of the State of Washington, relative to Senate Joint Resolution No. 8008 memorializing the Congress of the United States to enact appropriate legislation to retain the battleship U.S.S. *Missouri* (BB 63) at a selected site on the mainland; to the Committee on National Security.

62. Also, memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 107HD1 urging the U.S. Congress to proceed with the funding of the new carrier known as CVN–77, and homeporting the ship at Pearl Harbor; to the Committee on National Security.

63. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to a Senate resolution memorializing the Secretary of the U.S. Treasury to prevent Government subsidized foreign competition in the production of U.S. currency paper; to the Committee on Banking and Financial Services.

64. Also, memorial of the Legislature of the State of Montana, relative to House Joint Resolution 18 urging Congress to enact legislation to revise the process by which new drugs, biological products, and medical devices are approved by the U.S. Food and Drug Administration; to the Committee on Commerce.

65. Also, memorial of the House of Representatives of the State of Alabama, relative to House Resolution 288 urging the U.S. Environmental Protection Agency to reaffirm the existing air quality standards for ozone and particulate matter; to the Committee on Commerce.

66. Also, memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 42 urging the Congress of the United States to prohibit the participation of American corporations in the deforestation of tropical rainforests; to the Committee on Commerce.

67. Also, memorial of the Legislature of the State of Washington, relative to House Joint Resolution 4005 requesting that, except for needed buffer zones, the present boundaries of the Department of Energy's Hanford control zone on the Wahluke Slope be reduced to the areas south of the Columbia River and that the Wahluke Slope presently under the custody and control of the Department of energy be transferred in total to the counties of Grant, Franklin, and Adams for the purpose of returning the land to its former agricultural use; to the Committee on Commerce.

68. Also, memorial of the Senate of the State of Georgia, relative to Senate Resolution 205 urging the President and Congress of the United States to support the admission of the Republic of Poland to the North Atlantic Treaty Organization; to the Committee on International Relations.

69. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 415 memorializing the Congress of the United States to direct the General Accounting Office to update its 1987 report on Federal grant-in-aid formulas; to the Committee on Government Reform and Oversight.

70. Also, memorial of the Legislature of the State of New Mexico, relative to Senate Joint Memorial 26 requesting the Congress of the United States to support H.R. 260 before Congress to create a Guadalupe-Hidalgo Treaty Land Claims Commission; to the Committee on Resources.

71. Also, memorial of the Senate of the Commonwealth of the Mariana Islands, relative to Senate Resolution No. 10–32 expressing support for Guam's quest for Commonwealth status; to the Committee on Resources.

72. Also, memorial of the General Assembly of the State of Nevada, relative to Assembly Joint Resolution No. 2 urging Congress to amend the Recreation and Public

Purposes Act or to enact other legislation to facilitate the use of Federal land for affordable housing; to the Committee on Resources.

73. Also, memorial of the General Assembly of the State of Rhode Island, relative to a Senate resolution memorializing Congress to enact a constitutional amendment protecting the Nation's natural resources; to the Committee on the Judiciary.

74. Also, memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution 38 urging the Congress of the United States to support the passage of the Streamlined Transportation Efficiency Program for the 21st Century [STEP 21]; to the Committee on Transportation and Infrastructure.

75. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 571 memorializing the President and Congress of the United States to provide full Federal funding to replace the Woodrow Wilson Bridge, its interchanges and approaches; to the Committee on Transportation and Infrastructure.

76. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 495 memorializing Congress to reauthorize the Federal Surface Transportation Program by replacing outdated formulas with factors reflecting use, such as those identified in STEP 21; providing better equity in the distribution of highway funds to States; and authorizing funding for multimodal transit services and highways; to the Committee on Transportation and Infrastructure.

77. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 401 memorializing the Congress of the United States to authorize and fund the construction of a veterans' medical facility in northern Virginia; to the Committee on Veterans' Affairs.

78. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to a Senate resolution memorializing Congress and the President of the United States to reject proposals to consolidate and close veterans hospitals; to the Committee on Veterans' Affairs.

79. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 618 memorializing the Congress of the United States to continue the Low Income Housing Tax Credit Program; to the Committee on Ways and Means.

80. Also, memorial of the Legislature of the State of Oklahoma, relative to House Concurrent Resolution No. 1010 encouraging the U.S. Congress not to repeal certain tax incentives on former Indian reservations; encouraging Congress to request the Internal Revenue Service to recognize and comply with certain Federal law and issue certain ruling; and providing for distribution; to the Committee on Ways and Means.

81. Also, memorial of the Senate of the State of Georgia, relative to Senate Resolution 387 strongly urging the United States Congress and the United States International Trade Representative to recognize the economic and environmental benefits of Georgia's magnificent forest resources, strongly urging that the Congress and the United States Trade Representative not rescind the international trade agreement limiting the amount of subsidized Canadian lumber imported duty-free into the United States; to the Committee on Ways and Means.

82. Also, memorial of the House of Representatives of the State of Georgia, relative to House Resolution No. 360 requesting the U.S. Congress to authorize through legislation one or more State pilot projects to ascertain the feasibility of devolving the unemployment insurance system back to State control; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. YOUNG of Florida introduced a bill (H.R. 1552) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Blue Hawaii;* which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mrs. NORTHUP, Mr. BERRY, Mr. RUSH, Mr. DAVIS of Illinois, Ms. HOOLEY of Oregon, Mr. MALONEY of Connecticut, Mr. CANNON, Ms. RIVERS, Mr. ADAM SMITH of Washington, Ms. LOFGREN, and Mr. ROGAN.

H.R. 18: Mr. SNOWBARGER, Mr. HINCHEY, Mr. ENGEL, and Mr. LEACH.

H.R. 58: Mr. LEWIS of California, Mr. HOEKSTRA, and Mr. WICKER.

H.R. 96: Mr. GOODLING and Mr. MCHALE.

H.R. 108: Mr. FILNER, Ms. LOFGREN, Ms. HOOLEY of Oregon, and Mr. ROTHMAN.

H.R. 135: Ms. KILPATRICK, Mr. MARTINEZ, Mr. BLAGOJEVICH, Mr. DOYLE, Mr. BARCIA of Michigan, Mr. MCINTYRE, and Mr. TRAFICANT.

H.R. 144: Mr. SMITH of New Jersey and Mrs. NORTHUP.

H.R. 146: Mr. PARKER and Mr. BURR of North Carolina.

H.R. 209: Mr. FALEOMAVAEGA and Mr. LIPINSKI.

H.R. 339: Mr. ADERHOLT.

H.R. 366: Mr. DAVIS of Illinois.

H.R. 382: Mr. ENGEL.

H.R. 383: Mr. FRELINGHUYSEN and Mr. ENGEL.

H.R. 407: Mr. EDWARDS, Ms. VELÁZQUEZ, Ms. STABENOW, Mr. ENGEL, and Mrs. JOHNSON of Connecticut.

H.R. 418: Mr. RILEY and Mr. PASCRELL.

H.R. 446: Mr. SAWYER.

H.R. 457: Mr. KOLBE.

H.R. 475: Mr. COSTELLO, Mr. SISISKY, Mr. PASCRELL, and Mr. LUCAS of Oklahoma.

H.R. 483: Mr. TORRES and Mr. COYNE.

H.R. 500: Mr. HINCHEY and Mr. PAPPAS.

H.R. 519: Ms. CARSON and Mr. HALL of Texas.

H.R. 543: Mr. DAVIS of Illinois, Ms. PRYCE of Ohio, Mr. HOSTETTLER, Mr. PACKARD, Mr. ROTHMAN, Mr. WHITFIELD, Mr. YOUNG of Florida, and Mr. BERMAN.

H.R. 551: Mr. BORSKI.

H.R. 586: Ms. BROWN of Florida, Ms. STABENOW, and Mr. WATTS of Oklahoma.

H.R. 589: Mr. ROHRABACHER.

H.R. 622: Mr. COBLE.

H.R. 630: Mr. RIGGS, Mr. FARR of California, Mr. HORN, and Mr. MILLER of California.

H.R. 695: Mr. MORAN of Virginia, Mr. GALLEGLY, and Mr. CAMP.

H.R. 754: Mr. TORRES.

H.R. 790: Mr. LUCAS of Oklahoma.

H.R. 814: Ms. BROWN of Florida.

H.R. 816: Mr. GREENWOOD.

H.R. 857: Ms. CHRISTIAN-GREEN and Mr. SNOWBARGER.

H.R. 922: Mr. WELDON of Florida.

H.R. 923: Mr. WELDON of Florida.

H.R. 953: Mrs. LOWEY.

H.R. 965: Mr. WHITE.

H.R. 970: Mr. KIM, Mr. COOKSEY, Mr. LUCAS of Oklahoma, and Mr. BURTON of Indiana.

H.R. 991: Mr. SANDLIN, Mr. PASCRELL, and Mr. BOSWELL.

H.R. 1015: Mr. TIERNEY, Mr. OLVER, and Mr. MCGOVERN.

H.R. 1050: Ms. CHRISTIAN-GREEN.

H.R. 1061: Mr. MCHUGH and Mr. MCDADE.

H.R. 1076: Mr. ENGEL.

H.R. 1101: Mr. HORN.

H.R. 1134: Mr. PETERSON of Minnesota.

H.R. 1145: Ms. DANNER, Mr. ROYCE, Mr. BACHUS, Mr. SESSIONS, Mr. SOUDER, Mr. SNOWBARGER, Mr. COMBEST, Mr. RYUN, Mr. PAUL, Mr. BRYANT, Mr. CALLAHAN, Mr. WATTS of Oklahoma, Mr. CLEMENT, Mr. WATKINS, and Mr. BARR of Georgia.

H.R. 1168: Mr. LAHOOD, Mr. NETHERCUTT, Mrs. EMERSON, Mr. WICKER, Mr. MCHUGH, Mr. SESSIONS, Mr. BLUNT, Mr. BARRETT of Nebraska, Mr. EDWARDS, Mr. HILL, Mr. GILLMOR, Mr. BARTLETT of Maryland, Mr. HOBSON, Mr. SISISKY, Mr. TALENT, Mrs. NORTHUP, Mr. PAXON, Mr. HOLDEN, and Mr. COMBEST.

H.R. 1172: Mr. BILIRAKIS, Mr. MCINTOSH, Mrs. MYRICK, Mr. SHAW, Mr. SHAYS, and Mr. STEARNS.

H.R. 1203: Mr. KIM.

H.R. 1231: Mr. BEREUTER and Mr. FRANK of Massachusetts.

H.R. 1232: Mr. BROWN of California, Ms. ROS-LEHTINEN, and Mr. GALLEGLY.

H.R. 1241: Mr. TURNER, Mr. CONDIT, Mr. BLUMENAUER, and Mr. RIGGS.

H.R. 1245: Ms. RIVERS.

H.R. 1266: Mr. SOLOMON and Mr. SENSENBRENNER.

H.R. 1279: Mr. TOWNS, Mr. DUNCAN, Mr. WATTS of Oklahoma, Mr. PACKARD, Mr. CLEMENT, Mr. FOX of Pennsylvania, Mr. PORTER, and Ms. DANNER.

H.R. 1281: Mr. CONYERS, Mr. SKAGGS, Mr. JACKSON, Ms. KAPTUR, Mr. ABERCROMBIE, Mr. PALLONE, Mr. NADLER, Mr. CLAY, Mr. YATES, Mr. KLECZKA, Mr. MCNULTY, Mr. DINGELL, Mr. MILLER of California, Mr. DELLUMS, Mr. CAMPBELL, Mr. HALL of Ohio, Mr. STUPAK, Mr. SABO, Mr. CONDIT, Mr. PASTOR, Mr. EVANS, Mr. HILLIARD, Ms. LOFGREN, Mr. GONZALEZ, and Mr. SAWYER.

H.R. 1321: Mr. BARRETT of Wisconsin.

H.R. 1323: Mr. MCGOVERN.

H.R. 1329: Mr. DELLUMS, Mr. MEEHAN, Mr. FROST, and Mr. DEFAZIO.

H.R. 1335: Mr. BURTON of Indiana, Ms. CARSON, Mr. CLEMENT, Mr. FATTAH, Mr. FOX of Pennsylvania, Mr. GUTIERREZ, Mr. NEY, Mr. RANGEL, Ms. RIVERS, and Ms. WATERS.

H.R. 1348: Mr. DICKEY, Mr. COBURN, Mr. HOSTETTLER, Mr. HILLEARY, Mr. PITTS, Mr. SNOWBARGER, Mr. DOOLITTLE, Mr. BURTON of Indiana, Mr. GRAHAM, Mr. NORWOOD, Mrs. CUBIN, Mr. SAXTON, Mr. RADANOVICH, and Mr. THORNBERRY.

H.R. 1350: Mr. CAMP.

H.R. 1353: Ms. HOOLEY of Oregon and Mr. MEEHAN.

H.R. 1401: Mr. LEWIS of Georgia and Mrs. TAUSCHER.

H.R. 1415: Mr. RAHALL, Mr. DOOLITTLE, Mr. TURNER, Mr. BOUCHER, Mr. SALMON, and Mr. LIPINSKI.

H.R. 1418: Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. LAFALCE, Ms. LOFGREN, and Mr. QUINN.

H.R. 1427: Mr. BROWN of California.

H.R. 1438: Mrs. MALONEY of New York, Ms. DELAURO, Mr. GEJDENSON, and Mr. CONYERS.

H.R. 1445: Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. LAFALCE, and Ms. LOFGREN.

H.R. 1474: Mr. MARTINEZ.

H.R. 1475: Mr. HOSTETTLER.

H.R. 1480: Mr. FROST and Mr. ETHERIDGE.

H.R. 1492: Mr. GOODLATTE.

H.R. 1503: Mr. TALENT, Mr. DAVIS of Virginia, Mr. ENGLISH of Pennsylvania, and Mr. MCINTOSH.

H.R. 1507: Mr. SPRATT, Mr. DELLUMS, Mrs. MALONEY of New York, Mr. FILNER, Mr. BROWN of California, Mrs. MEEK of Florida, and Ms. ROYBAL-ALLARD.

H.J. Res. 26: Mr. GOODLATTE.

H.J. Res. 54: Mr. CAMPBELL and Mr. MCINTYRE.

H.J. Res. 72: Mr. MEEHAN, Mr. ROYCE, Mr. DUNCAN, Mrs. NORTHUP, Mr. TALENT, and Mr. ENGLISH of Pennsylvania.

H.J. Res. 75: Mr. FRELINGHUYSEN, Mr. MASCARA, Mr. CAMPBELL, Ms. SANCHEZ, Mr. EHRLICH, Mr. FROST, Mr. LIPINSKI, Ms. CHRISTIAN-GREEN, Mr. PORTER, Mr. BROWN of Ohio, Mr. DAVIS of Virginia, Mr. BOEHNER, Mr. WHITFIELD, Mr. RADANOVICH, Mr. LATHAM, Mr. HERGER, Mr. HASTINGS of Washington, Mr. BONILLA, and Mr. RYUN.

H.Con. Res. 13: Mr. POMEROY, Mr. EVERETT, Mr. MOLLOHAN, Mr. KLINK, Mr. NEAL of Massachusetts, and Mr. LEWIS of California.

H. Con. Res. 35: Mr. COBURN.

H.Con. Res. 48: Mr. CALLAHAN.

H. Con. Res. 55: Mr. HINCHEY, Mr. VISCLOSKY, Mr. PORTER, and Mr. PAPPAS.

H. Con. Res. 60: Mr. DAN SCHAEFER of Colorado, Mr. LAMPSON, Mr. MCINNIS, Mr. MCNULTY, Mr. MCGOVERN, Mr. ADERHOLT, Mr. PORTER, Mrs. NORTHUP, and Mr. JEFFERSON.

H. Con. Res. 64: Mr. PARKER.

H. Con. Res. 65: Mr. LIPINSKI, Ms. DUNN of Washington, Mr. GILMAN, Mrs. MINK of Hawaii, Mr. TIERNEY, Mr. ROTHMAN, Mr. GREEN, Mr. SCARBOROUGH, Mr. FILNER, Ms. KAPTUR, and Mr. DELAHUNT.

H. Con. Res. 68: Mr. LIPINSKI.

H. Res. 23: Mr. HORN, Mr. ENGLISH of Pennsylvania, and Mr. HILL.

H. Res. 104: Mr. MCGOVERN.

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. 900: Mr. TRAFICANT.

H.R. 991: Mr. SALMON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

10. By the SPEAKER: Petition of the Maryland Student Legislature, relative to a resolution concerning the indefinite extension of the Voting Rights Act; to the Committee on the Judiciary.

11. Also, petition of the city of Sonoma, CA, relative to Resolution 20–1997 requesting the 105th Congress to reauthorize Federal funding from section 8 of the Intermodal Surface Transportation Efficiency Act [ISTEA]; to the Committee on Transportation and Infrastructure.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

OFFERED BY MR. NADLER

AMENDMENT NO. 52: Page 335, after line 6, insert the following new section:

SEC. 709. TRANSFER OF SURPLUS REAL PROPERTY FOR PROVIDING HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the Federal Property and Administrative Services Act of 1949), the property known as 252 Seventh Avenue in New York County, New York is authorized to be conveyed under a public benefit discount to a non-profit organization that has among its purposes providing housing for low-income individuals or families provided, that such property is determined by the Administrator of General Services to be surplus to the needs of the government and provided it is determined by the Secretary of Housing and Urban Development that such property will be used by such non-profit organization to provide housing for low- and moderate-income families or individuals.

(b)(1) PUBLIC BENEFIT DISCOUNT.—The amount of the public benefit discount available under this section shall be 75 percent of the estimated fair market value of the property, except that the Secretary may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified due to any benefit which will accrue to the United States from the use of such property for the public purpose of providing low- and moderate-income housing.

(2) REVERTER.—The Administrator shall require that the property be used for at least 30 years for the public purpose for which it was originally conveyed, or such longer period of time as the Administrator feels necessary, to protect the Federal interest and to promote the public purpose. If this condition is not met, the property shall revert to the United States.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator shall determine estimated fair market value in accordance with Federal appraisal standards and procedures.

(4) DEPOSIT OF PROCEEDS.—The Administrator of General Services shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States and to accomplish a public purpose.

EXTENSIONS OF REMARKS

CONGRATULATIONS TO CONGREGATION OF ST. JOHN'S LUTHERAN CHURCH ON THEIR 125TH ANNIVERSARY

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. EWING. Mr. Speaker, I wish to take this opportunity to offer my congratulations and commendation to the people of St. John's Lutheran Church in Bloomington, IL. During 1997 the congregation is celebrating its 125th anniversary.

St. John's has been a very integral part of the Bloomington community for all of the 125 years since the church was established. St. John's has played a central role in bringing the people of this community together, helping them through the difficult events of life, and strengthening and nourishing their faith. Bloomington has always been a closely knit community where neighbors look out for each other, and St. John's is part of the glue that keeps the community together.

St. John's was around when Bloomington was a small farm town and has seen the community grow into one of the most dynamic and expanding cities in Illinois. St. John's will continue to serve the people of Bloomington into the next century and for many years to come.

Again, I want to offer my congratulations and thanks to the people of St. John's Lutheran Church for their commitment and service over the years.

IN HONOR OF NICK NARDI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Nick A. Nardi, a union leader for over 35 years who has worked tirelessly for his members and for his community.

Nick began his union career as a business representative for the International Brotherhood of Teamsters, Local 416. Nick earned the respect of his peers, and they chose him for higher union office. Nick rose to secretary-treasurer and later to president.

His fellow union leaders quickly recognized Nick's leadership qualities and appointed him as a trustee of joint council 41. Nick rose to become president of the joint council last year.

Nick distinguished himself as a labor leader who emphasized the importance of organizing, resolving grievances quickly, and helping members win a better life for themselves and their families. Nick helped to keep the Teamsters on the front line of fighting for justice. The Teamsters are a leading force for defending the rights of all working people as they fight for fair trucking laws along the border with Mexico. They are a crucial counterforce to the evergrowing power of large corporations. They are a voice for ordinary people.

Nick has made sure that the voice was heard and put into daily practice. Nick has ensured that union members had access to low-cost financial services through his service on the board of directors of the Ohio Teamsters Credit Union. Nick has given generously of his time, helping community nonprofit organizations such as the Salvation Army, City Mission, and Holy Family Cancer Home.

Mr. Speaker, let us recognize the achievements of Nick Nardi, who will receive the Tree of Life Award from the Jewish National Fund of Cleveland, OH, on May 28, 1997.

PREVENTION PROGRAMS THAT WORK

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. COYNE. Mr. Speaker, too often in our discussions on juvenile crime, we forget to acknowledge and celebrate the young people who succeed despite tremendous adversity. I rise today to acknowledge one such young man and the organization that helped him realize his full potential.

Thomas Washington, a former gang member and high school dropout, is now a role model for other young people in his community. Thomas grew up in Point Breeze, a neighborhood in the East End area of Pittsburgh. It is a neighborhood that suffers from gang activity and juvenile crime. Despite a loving, caring, supportive mother, Thomas got involved in gang activity. He was kicked out of three different high schools and had no sense of direction. Then Thomas got involved with the Pittsburgh YMCA's East End Youth Outreach Program.

The Pittsburgh YWCA had established the East End Youth Outreach Program in five of Pittsburgh's poorest neighborhoods in an effort to reduce crime and juvenile delinquency. This program encouraged and helped Thomas and other former gang members to start their own business, the Deluxe Landscaping Co. Now, a lot of young people from Thomas' neighborhood seen him working rather than hustling. They see through Thomas' example that there are positive, legitimate ways to earn a living and contribute to the community.

As we prepare to consider juvenile crime legislation, I would encourage my colleagues not to forget young people like Thomas Washington and organizations like the Pittsburgh YMCA. Prevention programs have an important role to play in reducing juvenile crime and helping young people through the often difficult transition to adulthood. I urge my colleagues not to ignore the need for prevention programs in addressing the problem of juvenile crime.

A TRIBUTE TO COMMUNICARE HEALTH CENTERS' 25TH SILVER ANNIVERSARY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. FAZIO of California. Mr. Speaker, I rise today to pay tribute to an organization which has provided health care to low-income residents of California's Yolo County for one quarter of a century.

CommuniCare Health Centers was founded in 1972 for the express purpose of providing access to high quality, affordable medical and dental services for individuals and families with limited financial resources, lack of insurance, language, and cultural barriers, and/or addiction to drugs and alcohol.

During this time, CommuniCare has successfully served as Yolo County's health care safety net for medically indigent populations as a result of multiple funding sources that include Federal title X moneys for family planning services as well as from other Federal and State programs, foundation grants, and private citizen support.

CommuniCare furthers the success of innovative public/private partnerships through its cooperative programs with other health care organizations such as Sutter Davis Hospital, Sutter West Medical Group, Kaiser Permanente, Woodland Healthcare, and the University of California, Davis Medical Center as well as various county and city agencies both public and private. In addition, critically needed health care services are provided by dedicated staff and management as well as over 200 physicians, dentists, mid-level practitioners, and trained community workers who volunteer their time with no compensation to help their Yolo County neighbors in need.

By virtue of committed staff and volunteers along with the philanthropic community and government support, CommuniCare serves as a model system for successfully serving a traditionally underserved population. I urge my colleagues to join me today as I honor CommuniCare Health Centers on its silver anniversary.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE CONSUMER PRICE INDEX

SPEECH OF

ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 6, 1997

Mr. ADERHOLT. Mr. Speaker, During rollcall vote No. 105, I was unavoidably detained. Had I been present, I would have voted "yes." I ask unanimous consent that the RECORD reflect my support for House Resolution 93, and that I be permitted to submit a statement for the RECORD.

I am proud to speak today in favor of House Resolution 93. This resolution states that Congress should not change the consumer price index. If any changes are found to be necessary, they should be made by the Bureau of Labor Statistics, the Federal agency with the necessary technical expertise and resources.

Many Federal programs including Social Security, Medicare, and Veterans' benefits are tied to the consumer price index in order to determine cost-of-living adjustments based on inflation. Congress simply lacks the technical knowledge required to properly deal with any change in the consumer price index. Only the Bureau of Labor Statistics can adequately evaluate and address the situation. This resolution today makes this crystal clear.

The consumer price index should not be politicized, nor should the budget be balanced through budgetary gimmicks. It is imperative that our Nation's seniors be protected. Promises have been made to our seniors that cannot be broken. I am committed to making sure that our Government keeps the promises it has made to the generation that saw us through some of the darkest moments of the 20th century.

ON ERIC DORENKOTT'S ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Eric Dorenkott of Fairview Park, OH, who will be honored this month for his recent attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work and the community. Each Eagle Scout must earn 21 merit badges, 12 of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the Nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the Scouting Law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle project, which he must plan, finance, and evaluate on his own. It is no wonder that only 2 percent of all boys entering Scouting achieve this rank.

Eric's Eagle project involved publicizing the Tot Finders Program to parents groups in Fairview Park. In the Tot Finders Program, parents receive special stickers which, when put in the windows of children, identify the children's location to firemen in case of fire.

My fellow colleagues, let us join Boy Scouts of America Troop 401 in recognizing and praising Eric for his achievement.

TRIBUTE TO PUBLIC SERVICE EMPLOYEES

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to public service employees at all levels of government in observation of Public Service Recognition Week.

As we observe Public Service Recognition Week, I would like to invite my colleagues to join with me in reflection upon and appreciation of the many contributions of men and women who, in a vast array of capacities, have chosen to dedicate their lives to serving the common good. Every day Federal employees do an incredible job of providing the people of our Nation with vital services. Through their outstanding efforts, these employees ensure the stability and continuity of our Government, but unfortunately, do not always receive due credit for their actions. That is why it is so important that we take this time to remember all the good work that Federal employees perform.

Mr. Speaker, I wish to commend all government employees for their work, and in particular, recognize and thank all the Federal employees in Massachusetts as they celebrate Public Service Recognition Week.

"UPWARD BOUND" HONORS 71 EAST BAY AREA STUDENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. STARK. Mr. Speaker, I rise today to recognize the achievements of a remarkable group of young people from Hayward, CA, who are being honored for their participation in the California State University—Hayward Upward Bound program.

On Saturday, May 24, 1997, Cal State-Hayward will host its Seventh Awards Recognition Banquet. Seventy-one Upward Bound program participants, 19 of whom are graduating East Bay Area seniors, and their parents will be honored.

In the summer of 1965, the Upward Bound program began in colleges and universities across the country, to recruit low-income students in the 8th, 9th, and 10th grades for participation in this college awareness program. The Cal State-Hayward program was later established in the fall 1990, and provides tutoring instruction, counseling, career orientation, and assistance in defining career goals, applying for college admission, and filling out financial aid applications.

The type of student selected for participation in upward bound is a very special one. These low-income students, chosen for their potential and desire to achieve, have had the opportunity to experience educational development and personal growth within a college setting while still in high school. Upward bound students work tirelessly in either the academic year sessions or summer sessions which consist of tutorial sessions during the week, complimented by Saturday sessions for field trips and cultural activities.

Students are referred to upward bound through school administrators, instructors, counselors, or community agencies who have recognized low-income students who would otherwise have been without the resources and guidance so necessary to the college preparation process. As a result, many of these students will be the first in their families to receive a 4-year degree.

As we maintain that educating our young people is priority No. 1, I am inspired by these real-life testimonials to the obstacles students can conquer when given a boost. We congratulate them on their achievement, admire their dedication, and wish them well in any endeavor they choose.

Printed below are the names of the students to be honored at this year's banquet:

Ninth Grade: Diana Ascencio, Tennyson; Andrea Bozant, Mt. Eden; Gabriel Cortez, Hayward; Stephanie Jones, Hayward; Robyn Moss, Hayward; Alberto Williams, Hayward; Pablo Chavez, Dublin; Tiana Gaskins, James Logan; Marco Palomino, James Logan; Gabriela Peña, James Logan; Jason Wells, James Logan; Ruby Lopez, San Lorenzo; Bogdana Marchis, San Lorenzo; Nocmi Arrieta, Tennyson; Peng Lim, Tennyson; Gaby Bressler, Hayward; Joshua Jones, Hayward; Eujenia Garcia, Hayward; Ana Gutierrez, Hayward; Vanessa Perez, Hayward; Marion Thurmond, Hayward; Damali Burton, Castro Valley; Andrea Williams, Castro Valley.

Tenth Grade: Noel Amezquita, James Logan; Emiliano Leyba, James Logan; Alisha Lovett, James Logan; Arnid Ramamoorthy, James Logan; Monifa Willis, James Logan; Steve Hayes, Hayward; Carlos Bressler, Hayward; Mario Guerrero, Hayward; Mahasin Mu'min, Hayward; Lissette Padilla, Hayward; Tanea Rhea, Hayward; Jose Herrera, Tennyson; Saila Molina, Tennyson; Michael Martin, San Lorenzo; William Watkins, San Lorenzo; Juan Flores, Arroyo; Ed Santana, Arroyo; Michael Boykin, Castro Valley; Ariana Sanchez, Richmond.

Eleventh Grade: Darryl Hampton, James Logan; Feliza Montes De Oca, James Logan; Reyna Nava, James Logan; Sonia Abrego, Mt. Eden; Michael Barrett, Mt. Eden; Ricshell Bunton, Mt. Eden; Phuong Nguyen, Mt. Eden; Oliver Chang, San Lorenzo; Anthony James, San Lorenzo.

Twelfh Grade: Joy Hadden, James Logan; Sylvia Mora, James Logan; Nicole Poston, James Logan; Jarrad Woods, San Lorenzo; Edward Gorton, San Lorenzo; Miguel Lopez,

San Lorenzo; Raymond Chan, Tennyson; Miguel Dueñas, Tennyson; Houng Huynh, Tennyson; Tim Lin, Tennyson; Carlos Martin, Tennyson; Reocel Mercado, Tennyson; Mariano Preciado, Tennyson; Yazmin Ramirez, Tennyson; Kiet Truong, Tennyson; Brant Guerrero, Hayward; Larry Leatherwood, Hayward; Rebecca Akin, Hayward; Claudia Flores, Arroyo.

TRIBUTE TO MR. BILL CROOKSTON

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in recognizing Mr. Bill Crookston, who will be honored on June 5, 1997 at the Annual Installation Ceremonies for his past year of exemplary leadership as the President of the Santa Monica Chamber of Commerce.

In addition to serving as President of the Chamber of Commerce, Mr. Crookston remained active both as President of the Santa Monica Jaycees and as a member of the Rotary Club of Santa Monica, confirming his commitment to community service and leadership.

During his tenure as president, Mr. Crookston maintained the delicate balance between addressing economic challenges while also providing the Chamber's membership and the community increased services, benefits, and programs.

Under Mr. Crookston's leadership, the partnership between the city of Santa Monica and the Chamber of Commerce was strengthened through a number of projects, including the school to work and career education program, the homeless assistance program, health and safety programs, and environmental programs.

Mr. Crookston approached his duties with a mixture of compassion and a strong business sense, encouraging cooperative efforts between the business community and community service agencies that serve Santa Monica's youth, families, seniors, and homeless populations. The members of the Chamber of Commerce and the residents of the city of Santa Monica owe Mr. Crookston a debt of gratitude for his devoted leadership.

I ask my colleagues to join me in honoring Mr. Bill Crookston for his successful term as president of the Santa Monica Chamber of Commerce and in wishing him happiness and success in the future.

HONORING WILLIAM E. THOMSON, JR. OF PASADENA, CALIFORNIA

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ROGAN. Mr. Speaker, many community leaders do great public service; too few are recognized for their outstanding achievements. One who deserves our recognition is William E. Thomson Jr. of Pasadena, CA.

Bill is a graduate of Bucknell University and Georgetown University Law Center. He is a member of the bar in California, Virginia, and Ohio, as well as the U.S. District Court in California, the Ninth Circuit Court of Appeals, and the U.S. Supreme Court.

A long-time resident of Pasadena, Bill has earned a reputation as a man of civic duty and responsibility. He was elected to the Pasadena City Council in 1981 and served continuously until this month, and was elected mayor and served in that capacity from 1988 until 1990.

Bill's leadership role carried him far beyond the council chambers. He has lobbied on behalf of the city before the Los Angeles County Board of Supervisors, California State Legislature, and U.S. Congress. For more than a decade he has served as lead negotiator for the Rose Bowl and its related events. He helped to bring the Olympics, two Super Bowls and World Cup Soccer to Los Angeles County. His professional successes have also given him the distinction of being recognized in Who's Who in American Law.

Bill has dedicated his career to his friends and neighbors in Pasadena, Los Angeles County and to the people of this Nation. His work on behalf of our State has given us innumerable benefits and touched countless lives.

Our communities are built on the foundation of good people. As we look to make our neighborhoods better places in which to live and provide a better life for our children, we need only look to Bill to find inspiration, motivation and ideals. To this dedicated public servant, parent, and citizen, we owe our utmost gratitude and heartfelt thanks.

HONORING DR. EVA C. WANTON

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. BOYD. Mr. Speaker, today we honor one of the academic worlds finest, Dr. Eva C. Wanton, founding dean of Florida Agricultural and Mechanical University's School of General Studies. Through her 30-year career at Florida A & M University, her record of quality teaching, service, and research reflects a commitment to improved educational opportunities for all students and a commitment to a better quality of life for her north Florida community.

For all of Dr. Wanton's academic achievements, I'm sure nothing compares to the personal relationships she has developed with her students, her faculty, and her community. Dr. Wanton has put her words into action. She has not merely stood by on the sidelines giving instructions on how to achieve, but rather she has led through her actions. Every student who has walked through her doors has been enriched through the experience of knowing Dr. Wanton. How many of us have had that one teacher or professor that we can look back and say? "My life was changed or positively impacted by an educator who went that extra mile because he/she saw the potential in me." If our young people are to succeed in today's world, we must have more individuals like Eva Wanton.

Today I rise to personally thank Dr. Wanton for the extra effort she takes to make a difference in north Florida. She is a precious gift to our community. We should all set our goals so high, because when we do, there is no limit to what we can achieve.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday May 7, 1997

Mr. KENNEDY of Rhode Island. Mr. Speaker, I regretfully missed rollcall vote No. 99, on May 1, 1997. If I had been present for that vote I would have voted "nay."

VOLUNTARISM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 7, 1997 into the CONGRESSIONAL RECORD.

THE SUMMIT ON VOLUNTARISM

Most observers of American life have noted a renewed interest in community, a response in part to the all too obvious social problems of homelessness, poverty, crime, and drug abuse. One of the underpinnings of our democracy, long noted by historians, is that Americans constantly form associations of all shapes and sizes to deal with the challenges of the day. Last week's high-profile summit on voluntarism in Philadelphia was designed to provide firepower to change the dynamics of voluntarism. It was clearly an impressive event, but my guess is that the overall effort is going to require a more involved strategy and considerable follow through.

OVERVIEW

The Summit For America's Future was quite an event. It had powerful rhetoric, a long list of good intentions, and impassioned calls for volunteers from Presidents Clinton, Bush, Carter, and Ford and from retired General Colin Powell. The summit's goal of improving the lives of 2 million children by the year 2000 is certainly a good one.

The summit seeks to mobilize volunteers and corporate money to help these children and make up for a scaled-back federal effort by providing children with mentors, safe places after school, health care and job skills, and an opportunity to perform community service themselves. All in all it was hard to escape the spirit of the summit and the spirit of voluntarism. The challenge to every group, business, and citizen is to give young people the support they need.

The benefits of volunteering are obvious. It not only raises the quality of life for a lot of people, it builds a sense of community, breaks down barriers between people, and develops leadership. I was greatly impressed during the floods that came to southern Indiana with the leadership that emerged in trying to see that food, services, and shelter were made available to the victims.

The extent to which corporate America is embracing volunteerism is also impressive. Hundreds of companies have donated time and money toward the summit's goals. They are pledging to mentor students, provide activities for children after school, offer health

services, help students to develop marketable skills, and donate equipment and services to schools. The traditional view that companies are only responsible for earning a profit appears to be outdated.

ASSESSMENT

I am always impressed with how generous Hoosiers are with their own time, ideas, and resources. I think of countless groups I have visited—religious organizations, foundations, corporations, not-for-profits, even the volunteer firemen who risk their lives for us. Their work brightens our lives and our communities. They serve as a marvelous antidote to the constant stream of news reports of crime and violence.

I do not draw the conclusion from their good activities, however, that government needs to do nothing. Anyone who has worked deeply on our country's most intractable social problems knows that it will take both private and public efforts to get the job done. There are about 40 million poor people in America and they literally need everything—better education, better health care, more food, more clothing, more skills training.

The floods in Indiana showed us the virtues and the limits of voluntary action. Bagging the sand and providing meals and clothing were wonderful examples of volunteer achievement, but the money from the federal and state governments is necessary to rebuild the communities. Throughout American history, volunteerism and government have worked together. We all know that government programs have a lot of gaps and failures. Volunteers can fill some of those gaps but probably not all of them.

The overall statistics on volunteerism are impressive. 93 million Americans volunteer. They contributed a stunning 20 billion hours of their time in 1995—that's 220 hours per person. But a closer look at the figures raises some questions. Almost 5 billion of those hours are informal volunteering like baby sitting for a neighbor and baking cookies for a school fair, and many others are volunteer hours at theaters, museums, boards, and commissions. While extremely worthwhile, such efforts don't always address some of the core problems of our society. Less than 10% of those 93 million volunteers work in human services, and fewer than 4% are tutors or mentors. Much volunteer work is done for local churches, which is certainly valuable, but only about 10–15% of volunteering done through the churches goes into the community.

Volunteer effort can also be poorly organized and managed. I am told by people who organize volunteers that there are usually many when a disaster strikes or when help is needed for one-time events like a walk-a-thon or even building a home for a poor family. The real problems come with sustained efforts to deal with the problems of poor children, needy seniors, and the poor. Volunteer services—especially improving the lives of children through mentoring—needs to be performed one-on-one over a long period of time and often in very low-income neighborhoods. It is hard to get volunteers for those kinds of tasks. Most volunteering is done in a very tight circle of familiar friends, places, and activities.

CONCLUSION

The big question that emerges from the summit, of course, is its legacy. Will this unprecedented bipartisan celebration of volunteerism be an historic launching point to help children and decaying neighborhoods or will it be just another media extravaganza that will fade over time? The central challenge is aimed at the millions of at-risk children in this country. They come from poor families that are often dysfunctional. Many overcome steep odds to lead productive lives but many others do not, at a high cost to society over a lifetime.

The summit has given us a chance, just a chance, to do something really important. It certainly signals a fresh start, and it will inspire many Americans to volunteer. Those who have worked on our intractable social problems are probably entitled to a degree of skepticism about its impact and follow through, but the real task is how to make things different this time. Commitments have been made and the challenge is to see if the American people can be inspired and energized to enhance the future of the children.

HONORING ESTHER KELLER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ENGEL. Mr. Speaker, today I would like to speak in praise of Esther Keller for her work and dedication to the people of the 17th Congressional District. Esther retired last month after 20 years of service and while I wish her the best, I will truly miss her. In fact, she was one of my first staff members when I was first elected to public office 20 years ago.

She has worked hard and well and with little public recognition, except among the many she has helped. She gave constituents what they want and deserve most from government: Help with a problem they cannot solve themselves. She initially worked out of a trailer in Co-op City before we moved indoors to an office which I still maintain.

Esther has been an integral part of my public life from the beginning. She worked long hours to help the people of the district, working with those who had difficulties with the Social Security system giving guidance when they could not find their way through the intricacies of the bureaucracy. She brought her own special kind of charm so that people who were receiving her help also felt comfortable.

All Members of Congress know the value of a staff member who wants to help those in need of help. In the time Esther worked for me I came to appreciate her willingness and her determination to give her all to the constituents. She treated them as her own, using all of her ability to assure them that someone did care and would help. I salute her and wish her the very best in her retirement. I and all the people of the 17th Congressional District will miss her.

BUFFALO GENERAL HOSPITAL SCHOOL OF NURSING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. LAFALCE. Mr. Speaker, I would like to call to the attention of my colleagues that today, May 7, 1997, the Alumni Association of the Buffalo General Hospital School of Nursing, in Buffalo, NY, is dedicating a permanent exhibit honoring the hospital's School of Nursing.

Buffalo General's School of Nursing was founded April 5, 1877 as the Training School for Nurses. It was the first such school west of New York City and is the second oldest hospital school of nursing in the United States. The school's nurse graduates have served our Nation in five wars: Spanish-American War, World War I, World War II, Korean war, and Vietnam war.

Among the school's many notable graduates was Lystra Gretter, class of 1888. She is best remembered for chairing the committee that wrote the Nightingale Pledge—later adopted as the official pledge of graduate nurses from accredited schools throughout the United States.

Mr. Speaker, I ask that you and my colleagues join me in honoring the Buffalo General Hospital School of Nursing for its 120 years of training nurses to care for our citizens.

COMING HOME: JAPANESE-AMERICAN HIGH SCHOOL STUDENTS OF 1942–1945—A SPECIAL GRADUATION CEREMONY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday May 7, 1997

Ms. PELOSI. Mr. Speaker, I rise today to recognize the Japanese-Americans who received honorary high school diplomas from the San Francisco Unified School District in a special graduation ceremony on May 6 at the Bill Graham Civic Auditorium in San Francisco.

The honorees were denied the opportunity to graduate from high school in San Francisco during World War II. The issuance of Executive Order 9066 by President Franklin Delano Roosevelt on February 19, 1942, set into motion the incarceration of 120,000 Japanese-Americans including the honorees and their families for the remainder of World War II. The internees were given only 48-hour notice to sell or store their belongings, and evacuate their homes before they were herded into 10 internment camps across this Nation. They were surrounded by barbed wire and watched over by armed military guards.

Most of the honorees were only 17 or 18 years old at the time. They were removed from school as security risks. Yet, they were American citizens, the American-born sons and daughters of parents who emigrated from Japan.

More than 50 years later, the honorees and their fellow internees are in the senior years of their lives. In the past decade or so, our Government has apologized and awarded reparations. The Civil Liberties Public Education Fund now supports efforts to educate others about the internment experience.

The honorees' experiences are living symbols of a shameful period in American history which we must not repeat. As one of the planners of the ceremony expressed, it is a privilege to be part of a program that will enlighten so many, especially the students in our school system.

Mr. Speaker, I commend the individuals involved and the San Francisco Unified School District in planning this event to acknowledge the legacy of the Japanese-American experiences. I am grateful to the honorees for coming forward and sharing of themselves. I am proud to salute them.

TRIBUTE TO JAMON CHARLES WILLIAMS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it is with great sadness that I rise to pay special tribute to a remarkable individual who has distinguished himself by his exceptional accomplishments in both academics and athletics. Mr. Jamon Charles Williams passed away on Thursday, April 17, 1997.

Jamon attended Memorial High School in San Antonio, TX, and was in the top 15 percent of his senior class. He was a Presidential Classroom Scholar and had plans to pursue an Engineering career at one of the six colleges where he had already been accepted.

Jamon was co-captain of Memorial's basketball team and was named to the 27-AAAA District Basketball team. His athletic ability and his desire to build team morale allowed him to lead his high school basketball team to many victories. In addition, Jamon was the president of the Black Student Union.

Mr. Speaker, all of San Antonio grieves for the family and friends of Jamon Williams. Mr. Williams was an extraordinary leader, an exemplary student, and a highly respected member of the San Antonio community. He inspired those that he worked with, won the devotion of his friends, and earned the gratitude of his community. I ask my colleagues assembled here to join me in honoring the life of Mr. Jamon Charles Williams.

SUPPORTING MORE EQUITABLE HIGHWAY FUNDING PROPOSALS

HON. WILLIAM L. JENKINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. JENKINS. Mr. Speaker, I rise today to bring the attention of the Congress to an issue of inequity facing my home State, the State of Tennessee. This inequity is the current funding formula of the Federal highway trust fund.

As most of you know, there are a number of States in the Union which are called donor States. These States pay into the highway trust fund through various taxes, but receive less money than they remit to the Federal Government. For example, based on the most recent Federal Highway Administration figures, the State of Tennessee receives approximately 82 cents for every $1 contributed to the fund.

However, there are a number of States which receive well over $1.50 for each $1 they remit to the trust fund. This is unfair. Tennessee's transportation needs, in many cases, are just as critical as those States which receive a disproportionate lion's share of the trust fund proceeds.

There are a number of proposals seeking to reach a more equitable solution to this funding disparity, and I urge all Members of this body, especially those of us in the donor States, to support reasonable changes in the funding formula to ensure that each State's transportation needs receive adequate funding.

CONFLICT OVER THE WESTERN SAHARA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. TORRES. Mr. Speaker, the Secretary General of the United Nations recently asked former Secretary of State, James A. Baker III, to make a fresh assessment of the situation regarding the long-standing conflict over the Western Sahara.

As my colleagues may know, the United Nations have been attempting to resolve conflicts which have gone on over more than 20 years between the Sahrawi Republic and the government of Morocco. The United Nations currently maintains a peacekeeping force in this region, and so far a resumption of armed conflict has been avoided.

Mr. Baker's recently completed visit to this region has brought renewed hope that a bridge to resolving the current impasse might be forthcoming.

His Excellency the Honorable Mohamed Abdelaziz, President of the Sahrawi Republic and Chairman of the Polisario Front, has made a noble gesture of goodwill toward the peace process by initiating the release of 85 Moroccan prisoners of war. His Excellency extended his hand of friendship, a gesture which I trust is appreciated and reciprocated by our friends in Morocco.

Mr. Speaker, I am inserting into the RECORD a letter which I recently sent to President Abdelaziz congratulating him on his gesture of goodwill toward the peace process in Western Sahara.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 6, 1997.

His Excellency the Honorable MOHAMED ABDELAZIZ, *President of Sahrawi Republic, Chairman of Polisario Front, Washington, DC.*

Your Excellency: I send you my personal greetings and best wishes. My office had the pleasure of being briefed by your Ambassador Said on your recent visit with Mr. James A. Baker, representing the Secretary General of the United Nations.

I have been informed of your extraordinary gesture of goodwill towards the process of peace in Western Sahara, I am referring to your decision to release some 85 Moroccan prisoners of war being held by your army. This is a most generous gesture and expression of your commitment to the current efforts to bring peace to your region.

Your actions speak well for the prospects of cooperation and consultation in Western Sahara. I trust that your generosity and vision will be reciprocated by Morocco and that Mr. Baker can be an instrument of reconciliation and resolution for the problems which have plagued your people for too many years.

Your gesture is deeply appreciated and understood.

Sincerely,

ESTEBAN E. TORRES,
Member of Congress.

A YEAR OF SUCCESS FOR THE REPUBLIC OF CHINA

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ROHRABACHER. Mr. Speaker, later this month on May 21, the Republic of China on Taiwan will mark a historic milestone. It will be the 1-year anniversary of President Lee Teng-hui's inauguration as China's first democratically elected President. President Lee's election was the culmination of a 10-year process of democratization and economic reforms which transformed the Republic of China into an economic powerhouse and a model for other emerging democracies in the world.

It was just a year ago that the People's Republic of China was launching missiles across the Taiwan Strait in the vicinity of Taiwan's main ports. This crude attempt to intimidate Taiwan's 21 million people, as they prepared themselves to elect their national leadership and, failed miserably. That failure for the PRC was great triumph for Taiwan. President Lee was overwhelmingly elected with 54 percent of the vote. In doing so, the people of Taiwan demonstrated their commitment and resolve to the democratic values we all share. I was proud to organize the congressional delegation which traveled to Taipei last year to witness President Lee's swearing in. I organized that trip because I respect and admire what President Lee has accomplished, and I am proud to call him my friend.

The past 12 months of President Lee's leadership has been a time of continued achievement and success for Taiwan. The Republic of China remains the United States seventh largest trading partner and best ally in Asia. In spite of the PRC's efforts to undermine Taiwan's free market, Taiwan's stock market has soared 36 percent and official reserves in Taiwan now exceed $90 billion. All of these achievements are a testament to the successful policies of President Lee and his government.

Mr. Speaker, I also want to take this opportunity to point out that we are also approaching the first anniversary of the appointment of John Chang as the Republic of China's Foreign Minister. Mr. Chang has a long and illustrious career as a diplomat, having served previously as Minister of Overseas Chinese and as head of the North American Division. I and many of my colleagues know about Mr. Chang's work and leadership, and I would like to take this opportunity to salute his success in keeping our bilateral relationship, while not official, for now, as warm and strong as ever.

Finally, Mr. Speaker, this month also marks the anniversary of Mr. Jason Hu's first year as

the representative of the Taipei Economic and Cultural Office [TECRO]. TECRO serves as the ROC's unofficial embassy here in Washington. Ambassador Hu previously served as President Lee's spokesman, and was a vital part of President Lee's team during the election. Since arriving in Washington, Ambassador Hu has developed many warm relationships with Members of this body and has worked tirelessly to insure United States-Republic of China relations continue to improve.

Mr. Speaker, the ROC is a beacon of democracy in a region of the world too often shrouded in the darkness of oppression and tyranny. The ROC is our friend and partner, and Mr. Speaker, I would like to thank you for stopping in Taiwan during your recent trip to Asia. And I want to thank you for speaking for me when you remarked that the United States should defend Taiwan if attacked. Once again, congratulations President Lee, Minister Chang and Ambassador Hu on a successful year of remarkable accomplishments.

ELIMINATING NUMERICAL LIMITATIONS RELATING TO CANCELLATIONS OF REMOVAL AND SUSPENSION OF DEPORTATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. GUTIERREZ. Mr. Speaker, today I am introducing a bill to amend the Immigration and Nationality Act and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to eliminate the limits relating to cancellations of removal and suspensions of deportation.

The new immigration law requires individuals applying for suspension of deportation—now changed to cancellation of removal—to establish good moral character, 10 years of continuous presence in the United States, and exceptional and extreme hardship to a spouse or child who is either a U.S. citizen or legal permanent resident. It also established that the Attorney General may not cancel the removal and adjust the status and suspend the deportation of a total of more than 4,000 aliens in any fiscal year.

The Executive Office for Immigration Review [EOIR] has announced that immigration judges have already granted 4,000 applications in the current fiscal year and ordered immigration judges to discontinue approving more suspension of deportation cases. Many eligible applicants, including refugees, will now be deprived of a way to legalize their status. We must take action to correct this situation as soon as possible.

The original intention of this section of the law was never to arbitrarily deny this form of relief to eligible people. The original language, as approved by the Judiciary Committee, restored the Attorney General's discretion to grant relief to eligible aliens who had not been admitted with the condition that an annual ceiling be placed on the number of adjustments of status granted. Nevertheless, the original language was changed during the floor consideration of the bill and the Attorney General now may not cancel the removal and adjust the status to permanent residence of more than 4,000 aliens in any fiscal year.

This unfortunate change could result in the unnecessary deportation of thousands of immigrants who may have fled their homes seeking safety and protection in the United States.

Very simply, my bill would remove the existing 4,000 cap and allow the immigration courts to use their discretion in suspension of deportation—cancellation of removal—proceedings.

NATIONAL ARSON AWARENESS WEEK

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. WISE. Mr. Speaker, I rise today to acknowledge National Arson Awareness Week and to support efforts to prevent arson such as the Target Arson project.

As a Member of Congress, I have supported fire prevention efforts on the floor of the House of Representatives and in West Virginia. Most of my work has been helping our children learn valuable fire safety lessons. Two years ago I worked with the Martinsburg Fire Department and the Berkeley County Office of Emergency Services to have a fire prevention video produced. The video, "House on Wheels Fire Education," was distributed to all elementary schools in West Virginia with the assistance of State Farm Insurance.

Arson is different from most other crimes. It is a cowardly criminal act. It is committed without regard to who might be hurt. Innocent victims, even firefighters can be harmed by an arsonist. Each year 1,000 people die from an estimated 332,000 arson fires. Direct property loss is in excess of $1.6 billion. Since 1984 arson fire deaths have increased 33 percent.

Unfortunately, West Virginians were not spared from the scourge of arson. The United States Fire Administration's Annual Report to Congress states that in 1994, 18.4 percent of all reported fires in West Virginia were caused by arson, with losses exceeding $1.6 million.

Earlier this week I participated in an arson investigation demonstration with Captain, West Virginia's only four-legged arson investigator. Captain is an arsonist's worst nightmare. He is a black labrador retriever who works for the State of West Virginia and is trained to locate the origins of arson incidents.

Additionally, the Federal Emergency Management Agency and local firefighters, police officers and other members of the community are participating in Target Arson, a public awareness campaign that is part of National Arson Awareness Week. Target Arson is aimed at educating our children and the general public about the dangers of arson, its consequences and how to prevent it.

Let us pause, Mr. Speaker, during National Arson Awareness Week to honor all those men, women and four-footed allies dedicated to fighting the war against arson and urge all Americans to support their efforts.

PERSONAL EXPLANATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ENGEL. Mr. Speaker, I was necessarily absent during rollcall votes 92 through 97. If present, I would have voted "no" on rollcall 92, "aye" on rollcall 93, "aye" on rollcall 94, "aye" on rollcall 95, "aye" on rollcall 96, and "aye" on rollcall 97.

HONORING THE REVEREND DR. C.B.T. SMITH FOR 45 YEARS OF DEDICATION TO THE DALLAS COMMUNITY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to congratulate and recognize the retirement of a great friend, the Reverend Dr. C.B.T. Smith, the minister of the Golden Gate Missionary Baptist Church. C.B.T. Smith has played a prominent role in the African-American community during his 45 years of service at his church in the city of Dallas. The reverend demonstrated a life long commitment to the ministerial needs of our community in Dallas, and his service is exemplified by his more than 50 years of service in the gospel ministry.

During his tenure, Dr. Smith has been a staunch supporter of education and has become well known for his work on the local, State, and national levels, promoting positive opportunity through education.

Dr. Smith's congregation gathered to commemorate his retirement in a weekend-long tribute which began April 11, 1997.

When Dr. Smith came to Dallas, he began to organize and create ministries which would give access to all who wished to attend church especially those who could not make it to Sunday worship.

He created a prison ministry and a bus ministry to continue to provide outreach to people who needed his service the most. He believed in feeding his flock first, through starting the First Christian Welfare and Storehouse Ministry, the Sunday School on Wheels Ministry, and a senior citizens ministry.

His most ambitious undertaking was when he launched the ARMS [Adult Rehabilitation Ministry], a residential drug and alcohol treatment facility for men.

All of these ministries which he set forth were to bring a sense of belonging to those who felt disenfranchised. He wanted to make sure that everyone who wanted to could feel a part of this community and attend his ministry.

Mister Speaker, I ask my colleagues assembled here to join me in recognizing my good friend and the fine minister from the Golden Gate Missionary Baptist Church, the Reverend Dr. C.B.T. Smith, for his many years of dedicated service to the city of Dallas. All of Dallas and the State of Texas are lucky to have such

a fine minister, and I am sure that he will, in some way, continue to look after us in some capacity in his retirement.

TRIBUTE TO SISTER MARGARET CAFFERTY, PBVM

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Ms. PELOSI. Mr. Speaker, it is with a mixture of sadness and deep gratitude that I rise today in tribute to an American woman who devoted her life to the causes of civil rights and social and economic justice.

Margaret Cafferty, a sister of the Presentation Sisters, is her name. And her death on April 20, 1997, at her motherhouse in San Francisco after a battle with bone cancer, leaves her native city, her country, and the global community a proud legacy of a staunch and persuasive defender of justice for all, especially the poor and oppressed.

Born in San Francisco on December 8, 1935, Sister Cafferty was the daughter of John Cafferty and Mildred Sinks. Sister Cafferty's sense of social justice was nourished from the cradle by her father, a coal miner, and her mother, who where both active in the struggle for labor rights.

In 1953, Margaret Cafferty entered the community of the Sisters of the Presentation. Her early assignments included teaching high school in San Francisco and in Los Angeles where she challenged her students to become aware of the social needs surrounding them. In 1968, she moved more directly into social action, working as a pastoral minister in the predominantly African-American community of Sacred Heart Parish in San Francisco. At the same time, she pursued and earned her masters of social welfare at the University of California at Berkeley.

As an educator, community organizer, and social justice leader, Sister Margaret pioneered new models of building a community within parishes. She successfully cultivated partnerships with labor, government, business, and the academic community in pursuit of justice. She fought tirelessly for civil rights in the African-American community of San Francisco, with the United Farm Workers, and with refugees from Central America. She led her order's participation in the Sanctuary Movement. She sought to know first hand the plight of the poor, visiting the migrant camps in California, the slums in our inner cities, and the poor communities on Mexico, Guatemala, Nicaragua, and El Salvador where her sisters worked. She was a bridge-builder and a peacemaker, She lived out the maxim, "If you want peace, work for justice."

On numerous occasions, she was called upon to exercise her exemplary leadership skills by working with the National Conference of Catholic Bishops, the Leadership Conference of Women Religious [LCWR], NETWORK, the Catholic organization which lobbies Congress on social justice issues, and by her own order. She exerted unparalleled leadership in building dialog within the Roman Catholic Church about the role of religious women. She never hesitated to speak the truth, to find opportunity in crisis, to identify hope within the most desperate hour.

From 1981 to 1990, the Presentation Sisters elected her to be superior general, and from 1992 until her untimely death, she served as the executive director of the LCWR.

As her sisters declared, "While Sister Margaret's contributions to the communities she served as an organizer and an advocate for the underserved were far-reaching, she will be remembered by bishops and beggars, by legislators and labor leaders, by friends and foes alike as an extremely gracious, articulate, determined and compassionate woman of faith who will be sorely missed."

Mr. Speaker, I ask my colleagues to join me in extending condolences to Sister Margaret's sister, Ellen Cafferty, herself a missionary in Guatemala, and to the Union of the Sisters of the Presentation [PVBM].

TRIBUTE TO LARRY SMITH

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. FORD. Mr. Speaker, I rise today to honor one of my constituents, Mr. Larry Smith. On May 8, 1997, the Environmental Protection Agency and the Environmental Law Institute chose Mr. Smith as winner of the 1997 National Wetlands Award. The award honors individual citizens who have dedicated their lives to preserving wetlands through programs and projects at the regional, State, and local level.

For years, Mr. Smith has been a leader and a pioneer of the environmental movement in Memphis. His work to protect wetlands and prevent toxic pollution has benefited every Memphian. He has made a critical difference in saving the wetlands along the Wolf River, a tributary of the Mississippi River, which snakes through southwestern Tennessee and through my congressional district. This river is important, not only for its scenic beauty, but because it's surrounding wetlands recharge the underground aquifers which have provided the pristine drinking water the citizens of Memphis and Shelby County have enjoyed for decades.

Mr. Smith has shown great skill as a grassroots organizer and educator of the public about the importance of protecting our environment. He has marshaled citizen concern about environmental issues, which has spurred our public officials to act to protect the environment.

I know how committed Mr. Smith is to the environment, because I have worked closely with him to develop and introduce legislation that will protect the public from toxic wastes. On January 27, 1997, an explosion at a hazardous waste facility in Memphis exposed the citizens of the neighborhood to a cloud of toxic chemicals and polluted a nearby creek. Thankfully, no one was injured, but at least two highly toxic chemicals, toluene and xylene were released into the environment. With the experience and expertise of Mr. Smith, I introduced H.R. 843, the Common Sense Toxics Buffer Zone Act, a bill which would require a 5,000-foot buffer zone between any residential community, school, day care, or church and the expansion or construction of a hazardous waste facility.

Mr. Smith stands as an example for all of us to follow. He is a steadfast soldier in the fight for clean water, clean air and the heritage of our national wilderness. I urge my colleagues to join me in recognizing Mr. Smith for receiving this prestigious award.

THE COMMUNITY RIGHT TO KNOW AMENDMENT

SPEECH OF

RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 6, 1997

Mr. KLINK. Mr. Speaker, I rise today to support the en block amendment offered by Chairman LAZIO because it includes my simple community right to know amendment, which I offered with my good friend and neighbor, MIKE DOYLE .

As a former member of the Banking Committee I would like to thank my colleagues, Chairman LAZIO and Representative KENNEDY along with their staffs for working with us on this efforts. I realize that more work will be needed in conference and I look forward to working together to ensure that this is included in the final bill.

Our amendment attempts to avoid disastrous situations like the one that happened in our area, when HUD nearly paid $92,000 for homes valued at less than $50,000, almost twice the market value.

Luckily this did not take place, because Mr. DOYLE and I were able to bring it to HUD's attention in time for HUD to investigate, and stop the purchase.

No, the purchase was not stopped because of resistance from the community.

It was stopped because when HUD investigated the sale they discovered that the purchase did not even meet basic HUD criteria: the units were concentrated together; without access to public transportation, shopping, or employment opportunities; and the cost was above HUD's top purchase price.

I submit, Mr. Speaker, that all of this would have been avoided if the housing authority and the locality had only worked together.

This amendment is not meant to be divisive, nor is it driven by NIMBY'ism. I am a strong supporter of public housing, and believe that every community has a responsibility to provide shelter for our poor, and less fortunate residents.

Mr. Speaker, let me explain what we are trying to do. The block grant section of the bill codifies the requirement that local housing authorities, and local governments work together. This is nothing new. Already, HUD requires housing authorities to go to the local governments in which new public housing is proposed and get them to sign local cooperation agreements as part of the application for federal dollars. Obviously, notification is implicit in that process.

We support this process, and think that local communities and the housing authorities should work together.

The problem arises when housing authorities act pursuant to a court order or a consent decree. That is what happened in our area. Pursuant to a consent decree the housing authority needed to distribute up to 23 single family homes throughout the county.

Mr. Speaker, we have no problem with public housing in our community. Nobody wants to keep people out. In fact, at both the local and the State level Democrats and Republicans alike want this to be a success and are willing to work together to ensure that it is. Our hope though, along with HUD, and in concurrence with the consent decree, is that we are able to pay a fair market value for the requisite number of homes, and have them disbursed throughout the community.

Mr. Speaker, the goal of the court that recipients of public housing, living in homes purchased pursuant to the consent decree blend into the community, and that we avoid concentrated public housing communities.

Mr. Speaker, this is our goal. Yet, Mr. Speaker, unlike every other application for federal public housing dollars the law is ambiguous as to notification requirements when it comes to consent decrees and court orders.

Mr. Speaker, I fully support the provision in the bill that would require HUD to "consult with units of local government" in the process of negotiating a settlement to housing litigation. This goes a long way toward avoiding the problems we have experienced, but it still does not adequately address consent decrees which have been entered into before this bill takes affect.

Our amendment eliminates this confusion by requiring notification. Regrettably, had the housing authority notified the borough, they could have worked together to a successful end—we would have avoided controversy, and saved the taxpayers thousands of dollars.

I urge you to support the Klink/Doyle Community Right to Know amendment.

CONGRATULATING PRESIDENT LEE AND THE PEOPLE OF THE REPUBLIC OF CHINA

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. HINCHEY. Mr. Speaker, I would like to congratulate the Republic of China and its President, Lee Teng-Hui, on the anniversary of Taiwan's first Presidential election. In 1996 President Lee became the first freely-elected President in the history of China. President Lee, who received over 54 percent of the popular vote, has proven that strong leadership does not come from strong-arming the people. Over the past year, his administration has continued to build on the same cornerstones our own country was founded on: freedom of religion, freedom of speech, and the pursuit of economic freedom through private enterprise.

Ever since the Republic of China was founded 86 years ago, we have enjoyed a very friendly relationship. Part of that friendship has been based on the Republic of China's strong foreign policy leaders. The Republic of China's newest Minister of Foreign Affairs, John Chang, has done an outstanding job of continuing this tradition. Prior to his appointment last year as Minister of Foreign Affairs, Mr. Chang worked more than 30 years to promote better relations between our two countries. Educated here in the United States, Mr. Chang served as the Director of North American Affairs in Taipei, and most recently the Minister of Overseas Chinese Affairs. Many Members of Congress have had the opportunity to meet with him over the past year, and I am sure they join me in congratulating him on a successful first year.

Mr. Speaker, I also would like to congratulate Taipei's Representative here in Washington, Ambassador Jason Hu. Ambassador Hu has worked hard to strengthen the political and economic relationship between our two countries. Ambassador Hu has been instrumental in helping Chung Hwa, the newly privatized Taiwanese telecommunications company, open an office here in Washington. Chung Hwa is seeking to purchase more than 10 billion dollars worth of U.S. goods and services. Ambassador Hu's leadership in promoting political and economic relations between our countries is an invaluable resource to our continued friendship. Recently, Dr. Hu received an honorary doctoral degree from the University of Southampton where he studied from 1976 to 1978, earning a master's degree in social science from the Department of Politics. Dr. Hu later earned his Ph.D. in 1985 from Oxford University. Mr. Speaker, I wish to congratulate President Lee for having so wisely chosen a scholar/diplomat to represent the Republic of China in the United States.

A little more than one year ago, Mr. Speaker, the Republic of China held free and fair Presidential elections despite military bullying by the People's Republic of China. The PRC claims to hold elections, but the entire world knows that the people on the mainland have no choice in deciding their political leaders. That is not the case with the Republic of China, which has a multi-party system, respect for individual rights and a robust economy based on free trade. Therefore, it is particularly appropriate to take this opportunity to congratulate the people of the Republic of China, President Lee, foreign Minister Chang and Ambassador Hu on a very successful year. I know my colleagues join me in wishing them continued success in the future.

HONORING RIVERSIDE MEMORIAL CHAPEL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ENGEL. Mr. Speaker, I am proud to speak in honor of the Riverside Memorial Chapel which is celebrating its 100th anniversary. It can be said that the Riverside Chapel has been a mirror of the Jewish community of New York City which it has served so faithfully for the past century.

It started in 1897 when Louis Meyers provided a horse-drawn funeral livery service on the lower East Side. These modest beginnings reflected the state of Jews in New York as recent emigrants. The company followed a newer generation to Harlem and in 1926 made a landmark move to Amsterdam Avenue and 76th Street, still the signature location of what was to become Riverside Chapel.

This spectacular four-story building, with its Gothic style chapel and hand-painted religious frescoes, had an implicit dedication to the sensibilities of the three main streams of Judaism. In 1933 Edward and Herman Meyers, grandsons of Louis Meyers, bought the company, renamed it Riverside Memorial Chapel and opened chapels in Far Rockaway and Miami Beach. After World War II, Riverside expanded by purchasing the adjoining building and building new chapels in Brooklyn, the Bronx, and Mount Vernon.

Riverside has also expanded throughout the country to establish a national presence so that as Jews left New York City they could still have a "Riverside" funeral. Riverside Chapel has acquired a sterling reputation for service, thanks in part to my close friend, Senior Vice President David A. Alpert. Riverside Chapel is a landmark in New York City which has earned our praise.

COMMEMORATING THE 135TH ANNIVERSARY OF D.C. EMANCIPATION

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. MANZULLO. Mr. Speaker, last month, I had the honor of participating in an event commemorating one of the greatest events in our Nation's history—the 135th anniversary of the emancipation of the District of Columbia. On April 16, 1862, President Abraham Lincoln signed into law legislation freeing the more than 3,000 slaves owned by residents of the District of Columbia. The action occurred 9 months before LIncoln's Emancipation Proclamation took effect on January 1, 1863.

The mission to free the slaves in the District of Columbia began following a discussion in early 1862 between President Lincoln and Senator Sumner of Massachusetts. During the conversation, Sumner asked the President if he knew who was the largest slaveholder in the United States. President Lincoln must have been jolted when Sumner answered, "It is you, Mr. President."

At that time, the Federal Government controlled the District of Columbia, where more than 3,000 slaves were held in bondage. Shortly thereafter, Congress passed legislation to free the slaves in the District of Columbia, and President Lincoln signed the D.C. Emancipation Proclamation. The first of our Nation's slaves had been set free.

This week, many great people came together in the District of Columbia to celebrate this momentous event. Among them was a wonderful woman named Loretta Carter Hanes, who along with her son, Peter, helped revive the annual program commemorating the D.C. Emancipation Proclamation. I must also thank my distinguished colleague, Representative ELEANOR HOLMES NORTON of the District of Columbia, for her great work in the district

and her diligence in making sure the commemoration ceremony continues year after year.

I was honored to be included in the commemoration program at the U.S. Department of the Interior. Sponsored by the U.S. National Park Service and D.C. Reading Is Fundamental, Inc., the 2-hour program featured reflections on history and prayers for the future. Particularly moving were the beautiful spiritual songs performed throughout the program. They represented the powerful hopes of the slaves as they one day dreamed of freedom.

Overall, it was an amazing program celebrating an amazing event in history. The only disappointing point of note were the hordes of empty seats in the main auditorium at the Department of the Interior. There should be standing room only for a program of this magnitude.

After speaking with the organizers of this year's event, we determined the D.C. emancipation commemoration would get more exposure—and thus more attendance—by presenting it in the Capitol next year. Not only should we encourage our schools to offer this program to their students, but Members of this body should attend as well.

I, also would like to bring attention to a related event that is going to take place tonight at the Smithsonian Institution's Hirshhorn Museum and Sculpture Garden. This event is called the International Emancipation Day Initiative Program and will examine the abolition of chattel slavery by the British Empire within its colonies on August 1, 1834, a historic action which fueled abolitionists movements worldwide. Included at this event, Peter Hanes will speak and exhibit literature about D.C. emancipation. He will also introduce D.C. emancipation historian C.R. Gibbs, noted author, journalist, and historian of the African Diaspora.

OPPOSITION TO H.R. 2—THE HOUSEING OPPORTUNITY AND RESPONSIBILITY ACT

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. RUSH. Mr. Speaker, I rise today to vigorously call for defeat of H.R. 2—The Housing Opportunity and Responsibility Act—or, more appropriately, Dooms Day Legislation. H.R. 2 is another example of the "Contract on America." And we know that the Contract on America is a contract on poor people—more than 1.4 million families who live in public housing across our country.

I oppose this draconian bill for many reasons. They include the new power that the bill gives to local public housing authorities to raise rents. This will drive thousands of low-income working families out of public housing. Public housing must be preserved for low-income people who need it most.

But let me discuss a major reason I oppose H.R. 2. It does absolutely nothing to move public housing residents closer to real jobs at real wages. Section 105—one of the more vicious parts of this bill—is the provision to require forced volunteerism and to establish "self-sufficiency contracts." H.R. 2 requires that nonelderly and nondisabled residents of public housing who cannot find jobs have to perform 8 hours a month of something called "community service." The bill also requires that residents and the public housing authority sign an agreement as part of the lease. This "agreement" is supposed to set goals for self-sufficiency. And one of the goals is a timetable for families to leave public housing when they become self-sufficient.

But how are millions of public housing residents supposed to become self-sufficient, when Congress refuses to appropriate money to rebuild our communities? Now that would create real jobs at real wages. Instead of passing H.R. 2, this Congress ought to be holding hearings this week on H.R. 950—The Job Creation and Infrastructure Restoration Act of 1997. This bill, cosponsored by more than 45 Members of Congress and over 100 organizations, including city councils, calls for $250 billion to launch a major public works program that could put millions of people to work rebuilding schools, roads, hospitals, and highways.

Self-sufficiency contracts make no sense. No public housing residents should be forced to sign such contracts when H.R. 2 contains no money for jobs or supportive services to help people find jobs. And why is this Congress considering a law that requires community work in return for receiving Federal assistance? Do we require "volunteer work" in exchange for the right to receive other types of Federal assistance such as farm subsidies, LIHEAP, corporate welfare, or loan guarantees?

Section 105 of H.R. 2 is a threat to working people, especially low-wage workers. The "forced volunteers" required by section 105 threatens to displace thousands of low wage workers currently employed by public housing authorities. If Congress passes a law that requires millions of hours of free labor by public housing residents, then public housing authorities will find no need to pay wages and benefits to other workers who currently perform vital security, maintenance, and other jobs.

Mr. Speaker, you can count on my vote against H.R. 2. And you can count me in to continue to fight with public housing residents across this country to preserve the people's right to affordable housing. Thank you very much.

INTERSTATE 69 COMPLETION CRITICAL ISSUE FOR AMERICA'S HEARTLAND

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. HOSTETTLER. Mr. Speaker, I am pleased to offer the following resolution from the Vanderburgh County commissioners for my colleagues' consideration here in the Congress. It is but one of the latest examples I see daily confirming that there is widespread, deep support to complete Interstate 69 through my home State of Indiana and through America's heartland down to Texas.

I see this evidence daily through my work as the founder and cochairman of the Interstate 69 caucus in the Congress. This caucus includes 37 members, including Representatives and Senators, from all points of the political spectrum.

As this historic Congress continues its work, Mr. Speaker, we need to push for a reauthorization of Federal highway spending to give States greater flexibility and more of the money that we all pay in taxes every time we gas up our cars and trucks. I think that need is well expressed in this resolution approved recently by the Vanderburgh County commissioners in Evansville, IN, and I commend it to the attention of my colleagues.

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF VANDERBURGH

Whereas, the Board of Commissioners of Vanderburgh County recognize that it has an important role to play in the economic development of Vanderburgh County; and

Whereas, the extension of Interstate 69 from Indianapolis to Evansville is an integral element of economic growth and prosperity for Southwestern Indiana; and

Realizing, that Southwestern Indiana does not have direct interstate access to its Capitol in Indianapolis, nor in any other North-South direction; and

Recognizing, that the expansion of Interstate 69 from Indianapolis to Evansville and then toward Mexico will greatly expand domestic and international commerce; and

Whereas, Vanderburgh County can attain only limited benefit from future expansion of trade without direct interstate access to the North and South;

Be It Resolved That, on this 10th day of March, 1997, the Board of Commissioners of Vanderburgh County endorsed the proposed extension of Interstate 69 from Indianapolis to Evansville and eventually on to Laredo, Texas for the purpose of creating a vital transportation link that will lead to the expansion of intrastate, interstate, and international trade; thus, providing a catalyst for creating numerous jobs and providing economic security for its inhabitants; and furthermore, we call upon our counterparts in all Southwest Indiana Counties along the proposed Interstate 69 route to adopt a similar resolution in support of said project.

RICHARD E. MOURDOCK,
President.

BETTYE LOU JERREL,
Vice President.

PATRICK TULEY,
Member.

Board of Commissioners of Vanderburgh County.

COMMEMORATING NATIONAL TOURISM WEEK

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. McCOLLUM. Mr. Speaker, I rise today to commemorate National Tourism Week. The designation of May 4 to 10 is a great way to deliver the message that travel and tourism are vital to the U.S. economy. Today, May 7, is actually Tourist Appreciation Day. Approximately 3,000 communities are expected to participate in this celebration with awareness

campaigns to stress the importance and success of tourism in the United States.

I know it seems odd to tout the importance of something that many of us take for granted. It seems that as long as there are planes, trains, and automobiles, people will travel. But the positive impact of tourism is incredible. In fact, tourism is America's largest services export industry, second largest employer, and third largest retail sales industry. This is a $440 billion industry, directly employing 6.6 million Americans.

Perhaps one of tourism's biggest benefits is on our trade situation. We continue to worry about our trade deficit. However, as the leading export, tourism drew more than $80 billion in expenditures by 43.4 million international visitors, creating a $19.5 billion surplus. It is staggering to think that international visitors spend $218 million per day on their trips to the United States.

On a more local level for me, Orlando and the entire State of Florida are popular tourist destinations. The mix of climate, theme attractions and natural beauty are instant draws to my district and State. I have the honor and pleasure to represent the Orlando area and see firsthand the benefits tourism can bring. The revenues generated by people visiting our State allow the State legislature to keep State taxes low. Florida still does not have a State income tax for this reason. Employment in Florida, especially central Florida, remains strong. Over 650,000 jobs are supported in Florida by tourists.

But aside from the economic benefits of tourism, Mr. Speaker, we simply must recognize the other bonuses of tourism. Vacations yield families quality time together. Traveling to new and interesting places is educational for people of all ages. International tourism promotes cultural and political understanding among different peoples. The list is virtually endless.

Mr. Speaker, I believe it is important to realize the importance of tourism to the U.S. economy and that our efforts in Congress reflect that. It is my hope that my colleagues will take note of National Tourism Week and Tourist Appreciation Day. We cannot afford to discount this critical industry.

NATIONAL TEACHER'S APPRECIATION WEEK

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today out of respect for National Teachers' Appreciation Week. Without a doubt, there is not a group of individuals that add more to our nation's future than the men and women who are in the classrooms with our children everyday. They are the ones who hold in their hands the future of our country's greatest resource. If any group of individuals deserves our recognition, it is these dedicated individuals that should always be the true objects of our gratitude.

As we move into the 21st century, our teachers are one of our most important resources; for without an educated and disciplined generation coming into power in our great democracy, we can not maintain our preeminent economy and scientific community.

Each of us can, no doubt, remember a teacher who affected the way we thought about the world around us. We can remember a teacher who changed the way we thought about what we wanted to do with our lives. Today is the day to try and evoke those memories and pay tribute to their work.

We have to keep these important people in perspective. These are the people who lead our children daily through their lessons, and give them the knowledge that they will take into later life. What can be a more important role in our communities and more deserving of our recognition.

Consequently, we should use this week to renew our commitment to our Nation's teachers. They are the backbone of our educational system. No matter what policy or funding we provide in this body, these are the people who walk into the classroom each and every day and do the kind of work we can only value in the highest sense.

I have worked with my teachers in the 18th Congressional District and they are extremely special. Every time I walk into our schools their enthusiasm for their work is self evident.

I want to pay my respects to each and every one of our teachers across this great Nation, in classrooms in our elementary schools, middle schools, high schools and our colleges and universities. I greatly admire them; and I offer them my thanks and sincere appreciation.

TRIBUTE TO THE STERLING HEIGHTS LIONS CLUB

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. LEVIN. Mr. Speaker, I rise to congratulate Sterling Heights Lions Club today, in recognition of their dedication of their new facility in Sterling Heights, MI.

For over 26 years, the Sterling Heights Lions Club has been dedicated to serving their community and helping those in need. They have undertaken countless projects, ranging from fundraising at festivals, raffles, and fairs to building playgrounds for disabled children to supporting students in youth exchange programs. Their efforts are as varied as their talents. Truly, our community is privileged to have in our midst such a dedicated group of individuals whose tremendous contributions have assisted so many in need of support.

It is especially fitting, as many of our public leaders have recently addressed our Nation on the importance of volunteering, that my brother, Senator CARL LEVIN, joins me in recognizing the Sterling Heights Lions Club. Their many years of service to the community are truly commendable and we wish them many more in their new facility.

CONCERNING LEGAL REFORM

HON. SONNY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. BONO. Mr. Speaker, I rise today to introduce the Trade and Professional Association Free Flow of Information Act, and ask my colleagues to join me by cosponsoring this important legislation.

Unfortunately, our society has become increasingly litigious, especially within the area of product liability. Many product actions involve small business owners who find themselves involved in extensive, complex class-actions lawsuits involving numerous litigants. Most often, these small business owners do not possess the resources to research problems and collect the information they need to mount a credible, effective defense. In many cases, these business people turn to their professional association for help.

Many associations have the staff and resources to provide research and information gathering services to their local members; indeed, this is but one of the many important roles played by associations at the local, State, and Federal level. However, as more and more association members request information—and the association attempts to fulfill the requests placed by its members—the association could find itself more deeply involved in litigation. And perhaps faced with liability, as a result.

This threat may cause associations to hold back in providing assistance so desperately needed by small business owners. As a result, there is less information flowing between associations and association members—information that could help avoid litigation in the first place. This free flow of information from associations to their membership often works in the public interest to alert consumers to the characteristics of various products before a possibly defective product is placed into commerce on a widespread basis.

My bill would primarily accomplish three goals. First, it would grant associations limited protection from liability when acting in good faith to provide information to their members. Only in cases of fraud or misrepresentation would an association be subject to a lawsuit for providing much-needed information and services to their members. This will set a national standard by which associations can provide information to their members without the threat of litigation.

Second, it would protect associations from burdensome subpoenas unless a clear case can be made that the information possessed by the association is vital to a particular case or is unavailable from any other source. I must make an important distinction—this provision does not prevent associations from being served with subpoenas. It merely ensures that the information requested is vital to a particular action and unavailable from any other source. This further serves to encourage associations to develop and catalogue information beneficial to their members.

Finally, the bill establishes a level of qualified privilege between association and member to ensure that confidential materials can

be provided for the benefit of association members. This provision is based on joint defense privilege currently recognized by state and federal courts. This privilege is qualified in the sense that it can be overcome should a judge determine that the party seeking materials has a clear and compelling for the information

It is my sincere hope that the provisions of my legislation will allow associations to continue to actively disseminate valuable information to their members while safeguarding current legal protections against fraud and abuse. The goal of the Trade and Professional Association Free Flow of Information Act is one I believe I share with a majority of my colleagues—a reduction in costly litigation through the free flow of information generated by associations for their members. I urge my colleagues to cosponsor this legislation.

HONORING STUDENTS IN FREE ENTERPRISE

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. GREENWOOD. Mr. Speaker, I rise today to pay tribute to an outstanding organization in Bucks County, the Students in Free Enterprise, located at the Bucks County Community College.

Students in Free Enterprise [SIFE] is a nonprofit, international organization including over 400 chapters on the campuses of U.S. colleges and universities. SIFE has continually encouraged the free-enterprise system through educational programs since its inception more than 20 years ago by Sam Walton, founder of Wal-Mart. Students in the organization dedicate their time and resources to helping others develop leadership, teamwork, and communication skills through learning, practicing, and teaching the principles of free enterprise. SIFE is not only involved with the encouragement of the free-enterprise system, but has worked closely with many national and international charitable organizations such as the American Red Cross, the American Lung Association, and the Civil Air Patrol on various projects. The student organization at the Bucks County Community College has also instituted programs such as Reading Empowers and Directs Youth [READY] and Children Are Really Extra Special [CARES] to teach children important computer skills.

The Students in Free Enterprise is a valuable asset to the people of Pennsylvania. In honor of their many charitable and civil contributions, I join my colleagues in the Pennsylvania House of Representatives in recognizing May 20, 1997, as Students in Free Enterprise Day.

I congratulate them on this day as they continue their mission of helping people achieve their dreams through free-enterprise education.

HONORING LONG ISLAND'S BEST AND BRIGHTEST

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ACKERMAN. Mr. Speaker, I rise to congratulate three extraordinary young people who have been selected for USA TODAY's 1997 All-USA High School Academic First Team. The Academic First Team is composed of 20 individuals who were selected from among 6,826 high school students from across the Nation. It is both humbling and inspirational to listen to the accomplishments of these dynamic individuals.

Joshua Gewolb, of Port Washington, NY, has spent substantial time exploring the makeup of a solar cell. In fact, he was actually able to compress the basic architecture of a solar cell, into a single molecule, thus increasing the overall efficiency of the cell. Joshua also received a $2,600 grant for his work which was used to purchase new equipment for his high school. In addition, Joshua is the editor of the newspaper at Paul Schreiber High School, and has won awards in speech and writing. If this wasn't enough, Joshua is also an accomplished cellist. He will be attending Harvard in the fall.

Davesh Maulik, of Roslyn, NY, has conducted world-class math research on the root permutations of polynomials. He has won three first place prizes at worldwide competitions. In addition, Davesh plays the violin in a chamber ensemble and is the senior editor of Roslyn High School's literary magazine. Davesh will be joining Joshua at Harvard University in the fall.

Joseph Turian, of Great Neck, NY, skipped a grade in elementary school and completed high school in 3 years. Thus, he will be graduating from Great Neck North High School at the age of 16. Joseph has done extensive work in the area of computer science. He taught a computer to write fairy tales of its own design and has also conducted substantial research on computer graphics. Joseph is also the editor of his high school newspaper and is a singer with the New York City Opera Children's Chorus. Joseph will also be attending Harvard University.

These three scholars truly embody the ideals of innovation, perseverance, and leadership. I ask all of my colleagues to join me in honoring and congratulating these young men, on their many accomplishments, and extending to them our best wishes for continued success.

THE TRIUMPHANT SPIRIT: DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. LANTOS. Mr. Speaker, as you and my colleagues know, this week marks the annual Days of Remembrance (Yom HaShoah), a time when ceremonies are held throughout the world to remember the six million victims of the Holocaust. It is most appropriate that each year we put aside our other routine daily activities and remember those victims of intolerance, racism, and unmitigated evil.

Mr. Speaker, this year to mark the occasion of the Days of Remembrance, my colleague and good friend from New York, BENJAMIN GILMAN, and I are sponsoring a very special exhibit here on Capitol Hill—"The Triumphant Sprint," the work of Nick Del Calzo. This outstanding display, which will be in the Cannon rotunda from May 6 through May 17, is a unique collection of portraits and stories in which the subjects, the photographer, the editor and the author all embody magnificent and inspiring aspects of what has come to be known as the American dream.

Denver photographer Nick Del Calzo, a journalist and former media consultant, is living his dream by pursuing his third career, documentary portraiture.

Del Calzo, a first generation American and one of seven children of Italian immigrant parents, traveled to Europe in 1991 to create portraits of his own relatives in Italy, Belgium, and France. He took an unplanned detour to Dachau, the Nazi death camp he had studied as a student. Though not Jewish, Del Calzo became compelled to document the Jews who survived that and other killing camps. Over 5 years, he photographed 145 American survivors, and over those 5 years, again and again, he looked into the eyes of those who had witnessed man's most heinous horrors. Del Calzo's photography captures so powerfully and eloquently the abysmal pain and suffering they endured, and it also reflects the ability of the human spirit to transcend tragedy and to assert the power of good over evil. Del Calzo's work is part of a unique photo collection—both an exhibit and now, a magnificent and moving photographic book, all under the title of "The Triumphant Spirit."

These Jewish survivors in the book, and so many others like them, are the ultimate metaphor of the American dream. They survived the attempted genocide by Adolf Hitler's Third Reich when, from 1939 to 1945, six million European Jews were systematically murdered. They had the courage to survive, and now they have the courage to relive and share their stories. Each survivor's story is different, yet each so similar in their pain and tragedy. Each person is one of a few or the only survivor of their families. Each survivor's experience is dotted with poignant incidents of happenstance that defined the difference between life and death. Each is a story of luck, determination, devotion, and survival. Each story is a triumph of the human spirit. The survivors come from across America. Some are famous, some have led quiet and humble lives. Each came to this country with hope for a better life. It was here they fashioned their dreams, their futures, and their families with all that was afforded them in this land of opportunity. Their lives are lasting reminders about how precious is freedom, how enduring is the human spirit and how dangerous is intolerance.

Nick Del Calzo has noted: "The day will come when the last Holocaust witness will perish and these voices will be silenced forever. My hope is that by capturing their portraits and their messages, they can continue

to inspire future generations and continuously rekindle hope for brighter tomorrows."

The portraits are truly inspirational. Some are against the backdrop of our Nation's most precious symbols of freedom and peace: the Lincoln Memorial, the Liberty Bell, the Statue of Liberty and others. And some are in moving settings that speak volumes about each survivor's life in this country.

Del Calzo was encouraged through this project by his confidant and, later, editor of the book, Linda J. Raper of Richmond, IN. Again and again, against obstacles, suspicion and discouragement, these two individuals worked tirelessly as they crisscrossed the country, without financial reward, to make this extraordinary project a reality. Their contribution to the story of the survivors and to the education of all who must know what happened in the Holocaust is so very important. Through their work and travels, they have endeared themselves to so many survivors and their families who are grateful, not only for their work and dedication, but for their understanding, and devotion, particularly as non-Jews, to continue to tell the story. Nick and Linda were joined in their efforts by a second generation American, Renee Rockford, the daughter of a Holocaust survivor who appears in the book. A journalist and freelance writer in Denver, Renee eloquently captured in words the touching and painful stories of each of the survivors in the book. She has traveled throughout the world with her father in search of surviving family members, and now has put into words, sometimes for the first time, what these people endured. Never having found any of his six brothers and sisters, parents, grandparents, aunts or uncles, Rockford's father, David Bram, felt that his most important purpose was to keep their story and his story alive, and the Triumphant Spirit accomplishes that goal. In his portrait in the book, Bram, an Auschwitz survivor, is holding what is for him a precious momento and symbol of the destroyed communities and peoples of Europe, a Torah scroll confiscated and warehoused by the Nazis, and now on permanent loan to Bram's congregation in Colorado Springs, CO. That scroll is all that is left of an annihilated community in Czechoslovakia.

But what the survivors came to know and understand was that America was a different place where their freedom to create a life, choose their religion and pursue their dream was simply a question of hard work. And work they did. The survivors of the Triumphant Spirit represent everything from the largest envelope privately-owned manufacturer in the U.S., successful real estate developers, protectors of civil rights, artists, authors, educators, poets, doctors and researchers, mothers and fathers and much more. My wife, Annette, and I are fortunate enough to be included among those survivors immortalized by Del Calzo. Not only have these people made enormous contributions to the foundation and fabric of our great country, but they will continue to do so as their stories endure and inspire us with their triumphant spirit.

Mr. Speaker, I urge my colleagues to take the time in the next 2 weeks to see this outstanding exhibit.

THE RECOVERY NETWORK

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. GEJDENSON. Mr. Speaker, I rise today to recognize a part of the solution to our Nation's problem with addiction. The Recovery Network was founded by a group of concerned citizens who are answering the call to do more in this era when government is being told to do less. At no cost to the taxpayer, this system will provide those in need with a direct connection to help. Addictions to drugs, alcohol, gambling, and other problems will be addressed in the privacy of people's homes, so that those taking the first step toward recovery can deal with doing so without a harsh public watching every move.

Mr. Speaker, I have a better description here with me and I am inserting this into the RECORD. I commend it to all of my colleagues and Americans everywhere:

RECOVERY NETWORK,
Santa Monica, CA.

The Recovery Network: providing political leaders with an issue of importance to every citizen.

In every city throughout the United States political leaders and community groups have focused major efforts and limited resources on the growing problem of drug and alcohol abuse. The cost in human suffering and diminished self-worth cannot be measured in the loss of productive work, crime, domestic violence and child abuse, or the large expenditures in local, state and federal financed programs.

The social cost of these problems is having an impact on other services demanded by citizens. Alcoholism and chemical dependency alone cost taxpayers, insurers and businesses more than $166 billion.

Finding solutions has eluded government officials, law enforcement and community leaders. With the dramatic cuts in funding from tax revenue, the problem will continue to plague government at all levels. Now, with ever-decreasing resources, more and more government leaders have come to the realization that new solutions are needed to solve social problems. The President and the Congress have called for a commitment by corporate America to use their resources to turn the tide in all areas that affect the lives of our citizens.

It is in that spirit that a group of concerned citizens and television professionals joined with professionals in the television industry, prevention experts and those in the recovery community to create the Recovery Network. This innovative cable network is working with established local recovery organizations in every state to deal with drug, alcohol and other substance dependencies, as well as eating disorders, compulsive gambling and depression, to a name a few.

The Recovery Network will provide a direct connection to those in need in the privacy of their homes. Real people. Real solutions. At no cost to the taxpayer. An answer to those never-ending issues leaders in government should enthusiastically endorse.

The Recovery Network is private enterprise helping to solve public problems through locally oriented programs created and supported by the national network. To do it, the Recovery Network must secure two hours of cable time each day on city-franchised cable systems. Within two years, this privately financed venture will seek a full-time, 24-hour-a-day link into every home to provide round-the-clock public education services to people in need of life-changing guidance to reclaim their lives.

For the first time, the Recovery Network offers a positive and innovative use of cable that provide daily programs to the homes of an estimated 88 million Americans affected by substance abuse and dependency.

30 million are children of alcoholics.

50 million are addicted to nicotine.

80 percent of all crime cases are alcohol- or drug-related.

The social impact is clear. The political advantage is positive.

In every local cable community, the Recovery Network is working closely with a partnership of local community organizations and foundations providing care to the people in need. Those care providers cannot reach all the people in need of their services. The Recovery Network expands that capability to every home wired to cable in their community.

This cable connection offers its viewers more than a presentation of the problem, more than direct involvement with real solutions but also a direct link to sources of information. The Recovery Network allows viewers to interact with others through a 24-hour crisis response hotline, 7 days a week, 365 days a year, as well as a support service offered on the Internet.

Support of the Recovery Network's search for a two hour link into every home through a cable system provides a real solution to the never-ending need to confront the problems of drug and alcohol addiction and provide real solutions through local government-franchised cable provider.

The Recovery Network gives political leaders, public officials, unions and the local recovery community a real tool to confront an issue of concern to every citizen at no cost to the taxpayer.

IN HONOR OF ITT AUTOMOTIVE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mrs. SLAUGHTER. Mr. Speaker, I rise today to pay special tribute to a distinguished company located in New York's 28th Congressional District: ITT Automotive.

ITT Automotive, which employs 3,800 workers at its electrical systems plant in Rochester, NY, was awarded the 1997 Quality Cup for manufacturing on May 2, 1997. ITT Automotive received the Quality Cup Award for creating an advanced modular windshield wiper system that met stringent quality and safety requirements for the Chrysler minivan and provided added value for the automotive industry supply chain. The employees heading the award-winning quality team include team leader Craig Hysong, Robert Price, Richard Fisher, Michael Kinsky, and Jeannine Marciano, all from ITT Automotive's electrical systems plant in Rochester.

No company could be more deserving of this award than ITT Automotive. The Quality Cup, given by the Rochester Institute of Technology and USA Today, honors companies and individuals who excel in the pursuit of quality.

In addition to the RIT/USA Today award, the ITT Automotive team members also were honored with Chrysler's Award for Excellence. Thee honors add to a long list of other awards that ITT Automotive has received in the past few years, including such prestigious honors as Ford's Q1, General Motors' Mark of Excellence, and Chrysler's Pentastar awards, as well as honors from Honda, Toyota, Mazda, Audi, and other international manufacturers. Last year the plant also received a Governor's Award from the State of New York for environmental protection programs that minimize hazardous wastes, reduced solvent air emissions, and improved energy efficiency.

These awards are a testament to ITT Automotive's workers and management, and I am delighted that RIT, USA Today, and Chrysler have chosen to recognize ITT Automotive for its strong record of quality. ITT Automotive represents the very best in American business: Putting its customers first, trusting its employees, and building quality into products and services. I am proud of its success, its achievement, and of the contribution it makes to our community. Congratulations to everyone at ITT Automotive who shares in this honor.

WORCESTER, WESTBOROUGH, STERLING, AND HOLDEN SENIOR GIRL SCOUTS EARN GOLD AWARD

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. McGOVERN. Mr. Speaker, last Sunday, May 4, I was privileged to be present when six young women from the cities of Worcester and Holden, MA, received the Gold Award, the highest achievement a girl can earn in Girl Scouting. These awards are a demonstration of the high values, commitment and goals of these remarkable women. They represent the future leaders of our communities and Nation—indeed, I expect that one of them will one day serve in the U.S. House of Representatives or the U.S. Senate.

The requirements for earning the Gold Award are rigorous and demand a significant commitment of time, effort, and personal initiative. Typically a young woman will invest 3 or 4 years of personal development, leadership activities, community service, and career exploration in preparation for the Gold Award Project. In the Gold Award Project, each girl reaches out to serve some segment of the community—of her world—in a meaningful and long-lasting way. She must develop and execute a special project, at least 4 months in length, that is original, challenging, solves a need, incorporates outside experts, and can be sustained after she leaves. The project must be approved and evaluated for successful completion by the Montachusett Girl Scout Council's Gold Award Committee of Worcester, MA. The project is truly an express of each girl's creativity and individuality.

The six young women honored on May 4, 1997, are Angela M. Achorn of Westborough, Geralyn Dion of Sterling, Martha Miriam Douty and Margaret Aria Felis of Worcester, and Katherine R. Hebert and Patricia Anne Owens of Holden.

For her Gold Award final project, Angels M. Achorn of Westborough compiled and distributed a 52-page book, "Preschools, Daycare, Activities and Other Services" for families of young children in the Westborough, Northborough, Marlborough, Hopkinton, Grafton, Shrewsbury, and Worcester areas. The book helps families new to the area know what programs are available for their children. Two hundred copies have been distributed and are available for reference in local libraries.

Working extensively with the Sterling Historical Commission, Geralyn Dion's Gold Award project, "Historic Sterling," included a tour of Sterling's historical sites for fifth graders studying American History, the installation of interpretive signs at eight historical sites in town, and the production of a video documentary of these sites. Copies of the video have been donated to the Sterling Education Association, Houghton and Chocksett Schools, Conant Public Library, Clinton Continental Cablevision, the Sterling Historical Commission, and other community groups.

Martha Douty of Worcester developed an activity program called Creative Arts for Autistic Children for her Gold Award final project. Working with the students and staff at the New England Center for Children, she established and conducted a weekly interactive program for the residents which the center plans to continue.

Gold Award recipient Margaret Felis of Worcester organized and founded a local chapter of the Maids of Athena, a social and community service organization for girls of Hellenic descent. The Saint Spyridon Cathedral-based group works to assist the Orthox Food Pantry and to support the needy within the Greek-American community in central Massachusetts. The group plans to expand their service project to include the wider Worcester community.

For her Gold Award final project, Katherine Hebert of Holden designed a training program to revitalize the outdoor skills of older girls, who then became mentors to younger girls. She designed and managed an event where girls between 5 and 17 years of age learned outdoor skills together, increased their ability to live comfortably in the out-of-doors, and experienced the program possibilities of a local conservation area.

Patricia Anne Owens of Holden chose to address the needs of the Holden Recreation Department for nature education resources at Trout Brook Park for her Gold Award project. She collected, cataloged, and presented to the department a wide range of resources that will be used as program ideas and aids for groups using the Trout Brook facility. Among the materials she helped to have donated are a microscope, ponding equipment, nature guides, and other hands-on equipment and materials.

The Montachusett Girl Scout Council serves over 10,000 girl members from the age of 5 through 17 and 2,600 adult members in 61 cities and towns in central Massachusetts. They are a member agency of the United Way.

TRIBUTE TO INDIANA LT. GOV. JOSEPH E. KERNAN

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Ms. CARSON. Mr. Speaker, I want to take a brief moment to share my pride and admiration for our Indiana Lt. Governor, Joe Kernan. Today, May 7, marks the 25th anniversary of when Joe Kernan was shot down by the enemy over North Vietnam and held prisoner of war for the succeeding 11 months.

Joe Kernan, a 1968 graduate of Notre Dame, had never set foot in Vietnam until he was shot down by the enemy while serving as a Naval flight officer in the Vietnam war. He was repatriated in 1973 and continued on active duty with the Navy until December 1974. The Combat Action Ribbon, two Purple Heart medals, and the Distinguished Flying Cross are among the military awards that the Lieutenant Governor has received.

Joe Kernan was elected to the office of mayor of South Bend in 1987. He served as the city's mayor for 9 years, longer than any other mayor in South Bend's history. In 1996, he and Governor Frank O'Bannon were elected to the top two positions in Indiana government. Joe and his wife, Maggie, have a home in South Bend.

Twenty-five years today, May 7, 1972, the life of Joe Kernan was turned upside down. He was flying over Vietnam at 4,500 feet, conducting bomb damage assessment, when his plane was hit with anti-aircraft fire.

Lest we forget the courageousness and dedication of our Vietnam veterans on behalf of all of us. Lest we forget in the words of Joe Kernan, "* * * hope and faith played an important role."

And in recalling the prose of the poet, "Joe Kernan exemplifies the true meaning of the land of the free, and home of the brave."

CONGRATULATIONS TO MY GOOD FRIEND SAMMY DAVIS, AN AMERICAN HERO

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. POSHARD. Mr. Speaker, I rise today to acknowledge my good friend, Sammy Davis, an American hero and a proud citizen of Robinson, IL.

On May 9, 1997, a new Federal building in St. Louis will be named after Sammy Davis. Let me tell you about this brave man. He is a local Congressional Medal of Honor winner. He was awarded this prestigious award after fighting off a Viet Cong attack and rescuing three wounded men west of Cai Lay, in South Vietnam on November 18, 1967. Sammy, a private first class in the Army, served as a cannoneer with Battery C, Second Battalion. Fourth Artillery, Ninth Infantry Division at a remote fire support base. Around 2 a.m., the base was under heavy attack by the Viet Cong. Sammy, just newly turned 21, provided

cover for a gun crew trying to direct artillery fire on the enemy. But their howitzer was directly hit, throwing him into a foxhole. Rather than heeding warnings to take cover Sammy bravely ran back to the howitzer, which was on fire, loaded and fired it. The recoil knocked him off his feet, but he valiantly climbed back on under heavy fire. He was injured when a motor round exploded just a few yards away, however, he again loaded the howitzer and fired four more times.

Even though Sammy was injured and unable to swim, he used an air mattress and a machine gun to rescue three wounded soldiers on the opposite bank and fired his gun into the dense vegetation to prevent the Viet Cong from advancing. During this intense battle Sammy kept firing away and protected the two soldiers remaining. Because of his courageous effort there were only casualties, no deaths. Sammy refused to be medically treated and jumped on another howitzer, continued firing, breaking off the Viet Cong attack, enabling him to escape with his life.

Not long after this battle Sammy was medically discharged and returned to the Indianapolis-Mooresville, IN area, where some of his family resided. While Sammy was in Vietnam his family moved to Robinson, IL. He then met his wife, Peggy Martin, and they have raised three children, two sons, Beau and Blue, who attend Lincoln Trail College and Vincennes University, and a daughter, Nicole Newkirk. Sammy is also blessed with a 21-month-old granddaughter, Stevie Raye, who is very much the "light" of his life.

Mr. Chairman, the Medal of Honor is the highest award given for the heroic deeds Sammy dared to accomplish in his youth, and it is a great pleasure for me to celebrate the dedication of the Federal building to Sammy Davis for his outstanding service to the U.S. Army. It is due to people like Sammy, who put their lives on the line to save others, that have truly made the United States the symbol of freedom worldwide. I am sure Sammy does not see himself as a hero and felt he was just doing his duty, but he is a hero in my eyes, and in the eyes of his family and the community of Robinson, IL.

TRIBUTE TO WILLIAM WOODROW CARTER: ALABAMA'S SMALL BUSINESS PERSON OF THE YEAR

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. EVERETT. Mr. Speaker, I rise to pay tribute to a distinguished businessman and outstanding citizen of my congressional district, Mr. William Woodrow Carter of Brundidge, AL. Mr. Carter has been honored as Alabama Small Business Person of the Year for 1997 by the U.S. Small Business Administration.

Woodrow Carter is one of 53 honorees selected from all 50 states, the District of Columbia, Puerto Rico/Virgin Islands and Guam based on criteria stability, financial strength, leadership resulting in business growth, ability to overcome adversity, response to changes in the market, and community and business citizenship.

Woodrow, together with his brother Charlie, founded Carter Brothers in 1936 with 10 employees. Today, his business has grown to employ 200 people and has diversified from the production of agricultural equipment to lawn mowers and garden equipment to go-karts. But that's not the real award winning story.

After Woodrow's business suffered extensive damage in a 1989 tornado, he didn't choose to close it down, but rather enlisted the support of his family and employees to rebuild. Remarkably, portions of his business were up and running within a few days.

Today, Carter Brothers Manufacturing of Brundidge is an example of a prosperous, ever adaptive small business, which continues to provide quality to the customer and solid employment to the community. This is quite a feat when you consider the financial, market and government-driven obstacles which often block small business development.

Mr. Speaker, I'm proud to congratulate my constituent, Mr. William Woodrow Carter for his contribution to Alabama's economic well-being. He deserves the mantle of Alabama's Small Business Person of the Year.

ADOLPH KOEPPEL HONORED BY THE TILLES CENTER FOR THE PERFORMING ARTS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents of the fifth congressional district, the overseers of the Tilles Center for the Performing Arts, and the countless friends and supporters of the arts as they gather on May 10 to honor Adolph Koeppel.

Adolph Koeppel has served as a distinguished and dedicated member of the Tilles Center since its inception. This week, he will receive the first Gilbert Tilles Lifetime Achievement Award, in recognition of Mr. Koeppel's ongoing sponsorship of the annual Tilles Center engagement of the New York City Opera National Company. Beginning next fall, a Tilles Center Scholarship Award will be made annually in honor of Adolph and Rhoda Koeppel to encourage the development of young artists and of new audiences for the arts.

Adolph Koeppel's devotion to the cultural life of Long Island is matched by his dedication to his profession. As the founding partner of Koeppel Martone Leistman and Herman, Mr. Koeppel has emerged as a leading tax certiorari attorney, and has gained wide recognition for his legal prowess among those practicing law in New York, the District of Columbia, and Florida. Indeed, Mr. Koeppel has established a reputation that readily emerges as a yardstick by which countless future legal efforts must be measured. His published works are voluminous and are used by practitioners as guideposts to addressing complex tax-law issues.

Mr. Speaker, there are few individuals with a career so intense and demanding as Adolph Koeppel's who can readily take a hobby and make it into a second career. Yet Adolph Koeppel has turned his love of philately into a professional endeavor. He has produced four books on the tax revenue stamps of India, and will soon be publishing a fifth volume that will serve as the definitive work on Italian fiscal stamps.

Yet of all his accomplishments and achievements in a career so diverse and time-consuming, Adolph Koeppel's personal achievements are his crowning success. He and his wife, Rhoda, are the parents of two exceptional daughters, Pamela and Lesley, who have in turn blessed the Koeppels with three granddaughters, Melissa, Jennifer, and Tara.

Mr. Speaker, it is at a time such as this, when our country eagerly searches for heroes who readily bring forth those strong values so endearing and meaningful, that we are enriched by Adolph Koeppel's enormous contributions of leadership, scholarship, and family love. I, therefore, ask my colleagues to join with me in this most deserving salute to Adolph Koeppel.

CONGRATULATING FIFTH WARD COMMUNITY REDEVELOPMENT CORP. AND BANK UNITED FOR SELECTION AS OUTSTANDING COMMUNITY INVESTMENT AWARD

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. BENTSEN. Mr. Speaker, I rise to congratulate the Fifth Ward Community Redevelopment Corp. and Bank United for their selection as one of the Nation's outstanding community redevelopment partnerships. They are being recognized this week by the Social Compact as recipients of the Outstanding Community Investment Award. This award is given to partnership-based organizations and individuals for exceptional achievement and leadership serving and investing in the future of American neighborhoods. This partnership is the first Texas-based initiative to be recognized by the Social Compact, a coalition of leaders from throughout the financial services industry who have joined forces to increase investment in America's lower income neighborhoods.

The Fifth Ward is one of Houston's poorest neighborhoods, but it has a rich history and great potential. Home to the late Barbara Jordan and Mickey Leland, as well as George Foreman, Joe Sample, and the Jazz Crusaders, it is located in close proximity to downtown. Once the vibrant heart of Houston's oldest and largest African-American community settled by freed slaves at the end of the Civil War, it is a community with a rich heritage and an indelible tradition of strong religious leadership. But hard numbers conjure up a different image: median income is just $7,600; 62 percent of the residents live in poverty; and 800 vacant lots and abandoned houses litter the community.

In this environment of opportunity and challenge, the Fifth Ward CDC and Bank United Partnership has ventured to help the community reclaim its heritage as a neighborhood of

choice. In an area that has not seen any new construction in 50 years, the partnership has built 77 new homes. Their strategy has been to construct high quality homes that will attract both middle-class families drawn to the neighborhood's rich history and downtown location, while also creating affordable home ownership opportunities so minimum-wage families can begin building an equity stake in the community. The Fifth Ward CDC has established their own construction company, which has allowed them to limit housing cost to about $10,000 below what commercial developers would charge. It has also provided 27 full-time jobs for neighborhood residents.

The Fifth Ward CDC and Bank United have formed a truly exceptional partnership that can serve as a model for other communities. They should be commended for their vision, their readiness to take risk, and most of all, for investing resources to help this community reclaim its heritage as a vibrant neighborhood of choice.

HONORING HEBREW HOSPITAL HOME

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 7, 1997

Mr. ENGEL. Mr. Speaker, the Hebrew Hospital Home has had as its mission, since its founding, the care and nurturing of the chronically ill and frail elderly. It has succeeded splendidly at this and celebrates its 20th anniversary of moving to its present location by announcing the good news that it will break ground on a 16,000 square foot addition adjacent to its building.

The Hebrew Hospital Home has expanded from its original 50 beds since its founding in 1928 to a capacity of 480 beds, an expansion made possible by the 1977 move to its present facility in Co-op City. The range of medical aid offered by this non-sectarian home includes on-site medical, dental, laboratory, radiology, ophthalmology, podiatry and pharmacy services. There are also specialized rehabilitative services such as physical and occupational therapy and speech and hearing services.

It has a highly trained professional staff of 650 persons of which 20 per cent live in the community. The Hebrew Hospital Home also has two state of the art outreach programs which recognize the desire of many elderly to stay in their own homes. It also developed the first and most innovative program to deal with Alzheimer's disease or dementia, a program providing services in the evening, the most difficult time for many of these patients. The Home also provides social work services and recreational services which range from on-site beauty salons and barber shops to trips to Broadway and other locations.

A society is truly valued by how it treats its elderly. The Hebrew Hospital Home is a shining example of how it should be done. I salute them on their anniversary and their expansion.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 8, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 13

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Housing and Urban Development.

SD–138

Energy and Natural Resources

To hold hearings on S. 416, to extend the expiration dates of existing authorities and enhance U.S. participation in the energy emergency program of the International Energy Agency, S. 417, to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002, and S. 186, to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States.

SD–366

Indian Affairs

To hold oversight hearings on the implementation of the Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477).

SR–485

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs.

SD–192

Budget

Business meeting, to mark up a proposed concurrent resolution on the fiscal year 1998 budget for the Federal Government.

SD–608

Commerce, Science, and Transportation

To hold hearings on State pre-emption of TELCO.

SR–253

Judiciary

To hold hearings on S. 610, 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.

SD–226

Commission on Security and Cooperation in Europe

To resume hearings to examine the process to enlarge the membership of the North Atlantic Treaty Organization (NATO).

SD–538

2:00 p.m.

Appropriations

To hold open and closed (SD–124) hearings on counterterrorism issues.

SD–192

2:30 p.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings to examine barriers to entry at airports.

SR–253

Commerce, Science, and Transportation

Oceans and Fisheries Subcommittee

To hold hearings on S. 39, to revise the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean.

SR–253

MAY 14

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine program efficiencies at the Department of Defense and the National Science Foundation.

SR–253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Rules and Administration

To hold hearings on the campaign finance system for presidential elections, focusing on the growth of soft money and other effects on political parties and candidates.

SR–301

MAY 15

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine spectrum issues.

SR–253

Small Business

To resume hearings on the Small Business Administration's finance programs.

SR–428A

Veterans' Affairs

To hold hearings to examine allegations of sexual harassment in the Department of Veterans Affairs.

SH–216

10:00 a.m.

Labor and Human Resources

To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.

SD–430

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for foreign assistance programs, focusing on combatting infectious diseases worldwide.

SD–138

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on staff reductions for fiscal year 1997 and 1998 for the National Weather Service.
SR–253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold joint hearings with the House Committee on Resources Subcommittee on Forests and Forest Health to review the Columbia River Basin Environmental Impact Statement.
SD–366

MAY 16

10:00 a.m.
Labor and Human Resources
To hold hearings to examine adult education programs.
SD–430

MAY 20

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.
SD–124

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Capitol Police Board, the Congressional Budget Office, and the Office of Compliance.
S–128, Capitol

Labor and Human Resources
To hold hearings to examine the quality of various health plans.
SD–430

MAY 21

9:30 a.m.
Indian Affairs
To hold oversight hearings on programs designed to assist Native American veterans.
SR–485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.
SD–192

Judiciary
To hold oversight hearings on the Federal Bureau of Investigation, Department of Justice.
SD–226

MAY 22

9:30 a.m.
Energy and Natural Resources
To resume a workshop to examine competitive change in the electric power industry, focusing on the financial implications of restructuring.
SH–216

Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to review the activities of the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.
SD–430

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold a workshop on the proposed "Public Land Management Responsibility and Accoutability Act".
SD–366

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the antitrust implications of the college bowl alliance.
SD–226

JUNE 4

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

JUNE 11

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

JUNE 12

9:30 a.m.
Energy and Natural Resources
To resume a workshop to examine competitive change in the electric power industry, focusing on the benefits and risks of restructuring to consumers and communities.
SH–216