HOUSE OF REPRESENTATIVES—*Thursday, April 24, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. BURTON of Indiana].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 24, 1997.

I hereby designate the Honorable DAN BURTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the early morning Sun until the going down of the same, we express our thanksgiving, O gracious God, for the many gifts of life that You freely give to us each day. We know that You look upon us not as we deserve, but You forgive us and give us new life and bless us along life's way. For Your amazing grace, for Your wonderful gifts, O God, for all the heavenly hosts who are witness to Your gifts, for all the people who encourage us and for all the people we are privileged to serve, we offer this prayer of gratitude and praise. 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 Colorado [Mr. BOB SCHAFFER] come forward and lead the House in the Pledge of Allegiance.

Mr. BOB SCHAFFER of Colorado 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 one-minutes on each side.

PRESIDENT'S EXECUTIVE ORDER WOULD LINE THE POCKETS OF UNION CONTRACTORS

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, what would the American public say about Congress if we tried to exclude 90 percent of American workers from Government contracts? They would have our heads, and rightly so. But with a stroke of his pen the President wants to do just that, to pay off his friends at the AFL–CIO. The President wants to sign an Executive order that would make sure that all the hard-earned tax dollars Americans send to Washington for Federal construction projects go only to union contractors.

It does not matter if a nonunion contractor can do a better or a less expensive job. It does not matter that this order would exclude 90 percent of the working families of this country. That is just too bad. Only union contractors will get your tax dollars, even if it costs more than a nonunion firm.

Does that make any sense? Of course not, but apparently the President thinks it is more important to line the pockets of the union bosses.

Mr. Speaker, I urge the President to reconsider this absurdly unfair, costly, and absurdly un-American order.

MEDICARE'S IMPENDING INSOLVENCY, REPUBLICANS' INACTION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, today the Medicare trustees will release the latest numbers on Medicare's impending insolvency. The Republicans are in the majority, so what is their solution? Instead of passing legislation to fix the trust fund, they have wasted the last 2 years trying to ram through deep Medicare cuts to finance tax breaks for the wealthy.

Last week Republican leaders argued for an additional $30 billion in Medicare cuts. The Medicare legislation that the Republicans passed in the last Congress would have forced seniors to pay double premiums for lesser quality care.

The Republicans fought the Medicare Program when it was created under Democratic control, and now they are relishing the opportunity to let it die under their watch.

PROJECT LABOR AGREEMENTS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, the American people are best served by open competition, whether for goods, services, or for construction. This has always led to lower costs, higher quality, innovation, and efficiency.

The Executive order of President Clinton that he has promised his important labor friends ignores all these principles and imposes a near monopoly on the source of construction labor. Under union-only contracts Federal work would be restricted to a small minority of the work force that is unionized and would deny work to the majority of workers who, for religious, economic, or other personal reasons, choose not to work under union control.

Mr. Speaker, I urge the President to reject the calls from one narrow interest group for favoritism and to support fair and open competition. Imposing this discriminatory Executive order would be a disservice to working men and women, to the American taxpayer, and to the economy.

WOMEN AND INFANT CARE PROGRAM SHOULD NOT BE CUT

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today to ask my colleagues to give major consideration to a program that I think is one of America's finest, and that is the women and infant care program, which I understand that many are talking about cutting.

When we talk about a Nation where infant mortality is at such a high rate that it compares very favorably to many Third World countries, it seems to me that a program that addresses the needs of pregnant women, children before and after birth, ought not be one that we ought to be using the budget knife to slice.

In reality, when we talk about what America is all about, it would seem to me our primary interest ought to be in the protection of our babies and our children, and clearly one of the best programs that we have that addresses that concern is the Women and Infant Care Program.

I think if we talk about budget cuts with WIC, we lose the opportunity to provide for milk, the bread and all of

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the other necessities for the nutrition of these young children, and in doing so, I think it represents a blight on America.

I would hope that committees that are giving consideration to budget cuts in this area would reconsider and think more favorably about a program that is doing what it was intended to do, and that is meet the needs of our infants and our pregnant mothers.

THE SPIRIT OF VOLUNTARISM IS STILL ALIVE AND WELL

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. DUNN. Mr. Speaker, when Alexis de Toqueville came to America in the spring of 1831, there were many aspects of American life that deeply impressed him. One of the aspects of American life that impressed him the most was the spirit of voluntarism that he encountered everywhere he went.

Mr. Speaker, that spirit of voluntarism is still alive and well today. In fact, I believe that voluntarism is part of the American character. That is why I am so distressed to see that the spirit of voluntarism is threatened these days by a legal system that allows all sorts of lawsuits to be filed against innocent people who volunteer their time to serve others.

Mr. Speaker, too many volunteers are put on trial by those who are manipulating our legal system and that must stop. That is why we must pass H.R. 911, the Volunteer Protection Act. Volunteers who act in good faith, who are engaged in acts of charity should not be threatened by absurd lawsuits.

Let us pass H.R. 911 and strengthen the unique American spirit of voluntarism.

WHITE HOUSE TURNS THE OTHER CHEEK ON CHINA'S ACTIONS

(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, China denies American products and the White House turns the other cheek. China smuggles AK–47's into America and the White House turns the other cheek. China sells missiles to Iran, the White House turns the other cheek. China even threatened to use nuclear force against Taiwan. The White House turns the other cheek.

And after all this, the White House still wants to grant most-favored-nation trade status to China.

Beam me up here. Evidently, the White House will not learn a lesson till one of those Communist Chinese missiles hits them right smack in the middle of their other cheeks. Think about that one, ladies and gentlemen. We are, in fact, financing the next major national security threat to our Nation.

MEDICARE TRUSTEES' REPORT

(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, a little over 2 years ago, on April 3, 1995, the Medicare trustees, who are appointed by President Clinton and other folks, but it is a bipartisan committee, they came out with their report, and the trustees' report 2 years ago said Medicare was going to be bankrupt, the Congress was under an obligation to move to protect and preserve and strengthen Medicare.

At that time, the Congress passed two plans to protect, preserve, and strengthen Medicare on a bipartisan basis and increase funding per beneficiary from about $5,200 to $7,100. There was no cut.

Unfortunately, politics being politics, this was demagogued and eventually vetoed by the President of the United States. The senior citizens of America deserve more. Today those same trustees will come out with yet another report, and it will say one more time that Medicare is going to go bankrupt in the year 2002.

In 1995, when the report first came out, Medicare was losing $22 million a day. Today it is losing about $36 million a day. Our seniors, my grandmother, my mom, my dad, your grandmother, your mom and dad, they deserve more. It is time for us to work on a bipartisan basis to save Medicare, not just for the next election, but for the next generation.

EDUCATION STANDARDS

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute.)

Mr. ETHERIDGE. Mr. Speaker, nothing is more important to the future of our American families, our communities, and our economy than the success of our public schools. In North Carolina, we have proven that over the last 8 years that if you want to make great strides in public education, you can do it through innovation, high standards, and good old-fashioned hard work.

I rise today to urge this Congress to take aggressive action to support excellence in our public schools. North Carolina has proven that by challenging our people to become the best, we bring out their best efforts. This Congress must take the same approach by providing the necessary tools to equip our young people to provide for quality education for every child in every point and every place in America for those that are willing to work.

Mr. Speaker, I will soon introduce legislation to support voluntary standards in our States to provide for higher standards. We must measure our progress and chart our future to a better America. I urge my colleagues to join me in the support of this legislation.

SAVING MEDICARE

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, today is an important day for my grandmother and my wife's grandmother and for many of the seniors that I have had a chance to meet over the last several years in my short career in politics. Today is important to them because this afternoon the Medicare trustees will meet and finally release the annual trustee report.

This is a body of trustees appointed by the President. If recent trends hold true, the Medicare trust fund will be bankrupt within 4 or 5 years; and when that happens, all of these seniors will lose their hospital coverage. My grandmother and my wife's grandmother asked me to promise them during the course of my campaign that I would not let that occur, and I aim to maintain that promise and uphold it.

For 2 years, the Republicans have been fighting to save the trust fund. Our plan would actually increase Medicare spending by an average of 7½ percent per year from the $5,200 per recipient today to $7,100 by the year 2002. That rate of responsible growth is what is needed to, in fact, maintain the solvency of the trust fund.

We also intend to offer choices and to restore the patient-physician relationship that has been lost by a large government, third-party payer system, which is going bankrupt unless we act now to save it.

I urge my colleagues on the other side and the White House, as well, to join us in the effort.

TAX BREAKS FOR WEALTHY IS WRONG PRIORITY

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, Republicans are demanding an additional $10 to $30 billion in Medicare cuts. Why? Not to extend the life of the Medicare part A trust fund, not to improve the program for the 38 million seniors and disabled who depend on it. No, the additional cuts proposed by the majority are needed to fund tax breaks for the wealthy.

The new crown jewel, costing $300 billion over the next 5 years, involves eliminating all estate and capital gains taxes. Some tax relief makes sense, but

only after we balance the Federal budget and invest in our future.

Tax breaks for the wealthy are the wrong priority for this Congress. Our children must be our top priority. Children's health insurance, quality, affordable child care, improved education, and confronting drug and alcohol abuse, that is the heart of our future and ought to be part of our budget.

□ 1015

REPUBLICAN AGENDA TO ADDRESS CHILD ABUSE

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I come here today to talk about part of the Republican agenda. Yesterday I was in a news conference with the gentlewoman from New York [Ms. MOLINARI], the Speaker of the House, the gentleman from Texas [Mr. DELAY], and others from our side talking about legislation to help protect abused children.

One of the points that came out so clearly in that legislative proposal and those who testified was that drugs and alcohol are one of the biggest causes of child abuse in America. I think, of course, of child abuse as symptomatic of the problems with our society and that is an enormous challenge that will take years to meet. But there are things we can do now. We can stop drugs from entering America. We can do a better job of it. We can beef up our border patrols. I hope that they are doing a good job. If they are not, we ought to be investigating. We can use the best equipment to detect those bringing drugs into America. We are not doing enough. It is time that we recognized how high these stakes are and do our very best.

FREEDOM OF THE PRESS UNDER ATTACK

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, one of the most important aspects of the foundation upon which this Republic is based is freedom of the press. That freedom unfortunately is under attack by the majority in this House. Two days ago, the Speaker of the House of Representatives addressing the Georgia Chamber of Commerce called upon the advertisers in America's newspapers to attempt to influence the quality and character of news as it is being recorded by the free press in this country. This comes upon the heels of the blatant attack during the last Congress to influence in an outrageous way public broadcasting, both television and radio, in this country by cutting back on their funds. Freedom of the press is critically important to the future of this country and to the freedoms that are possessed by all Americans. That freedom is under attack by this Speaker. I call upon the majority Members in this House to repudiate those remarks of the Speaker and to reaffirm that this House stands solidly behind the right of the free press in this country to report the news as it sees fit, not based upon the advertisers that advertise in those newspapers.

PROJECT LABOR AGREEMENTS

(Mr. FAWELL asked and was given permission to address the House for 1 minute.)

Mr. FAWELL. Mr. Speaker, the Clinton administration is expected to issue an Executive order regarding the use of what is called "project labor agreements" for all Federal and federally funded construction projects. This proposal is anticompetitive, it is discriminatory, and it is just basically unfair since nonunion construction companies will not be eligible to bid on Federal and federally funded construction projects.

The proposed order appears to be yet another attempt by the President to change or affect Federal laws by executive fiat rather than through the normal legislative process.

Mr. Speaker, this is a matter of basic American fairness. Republicans and Democrats alike should be concerned about this proposed Executive order. Bids to perform Government work should be based on sound, credible criteria such as quality of work, experience, and cost, not union affiliation and not whether the bidder is a union or nonunion construction company. President Clinton's initiative is unfair and discriminatory and goes in the opposite direction of fair and merit-based competition. It will exacerbate already strained relations between management and labor in this Nation and between the Congress and the administration. I would implore the President to reconsider his intentions here.

MEDICARE

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, one of the things that most frustrates the American public is the failure of Congress to address the Nation's real business. Today the trustees of the Medicare system will make a report and talk about the real business, and that business is the problem of our Medicare trust fund going bankrupt in about the year 2002.

The question then becomes what are we going to do about it? Or, rather, what is the Republican majority going to do about it? We believe that we can make prudent cuts and achieve savings that will solve this problem. The President has put that proposal out on the table. We can adjust it and avoid this bankruptcy. The question becomes, what does the Republican majority want to do? So far, their crown jewel is not solving Medicare but providing tax breaks that basically benefit the wealthy. The tax breaks that they have talked about amount to $300 billion over 5 years. Who gets that $300 billion in tax breaks? Not the average American. Rather, the richest 5 percent, people who make over $100,000 a year.

My suggestion is this: Let us not give those big tax breaks, let us put the crown jewel back in the drawer, let us address the Nation's real business which is solving the Medicare problem. We can do that without giving tax breaks to the wealthy, and that is what we ought to do. Take care of the Nation's business.

MEDICARE IS LIVING BEYOND ITS MEANS

(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, as my colleagues have said so far this morning, today the Medicare trustees' report will be unveiled. Unfortunately, we all know what it is going to say. It is going to say that bankruptcy is closing in. That is the bad news.

For 2 years now Medicare part A, the trust fund, has been spending more than it takes in. Medicare is living beyond its means and is rapidly depleting any surplus that it may have built up. That is the bad news.

The good news is that we have a plan to protect the trust fund. We can simplify the complicated billing and paperwork. We can offer seniors a choice and use the market system to give people a choice and let them decide what is best for them. We can aggressively fight waste and abuse, which cost billions of dollars to the Medicare fund every year.

Mr. Speaker, such a plan was successfully passed in the last Congress. Unfortunately, the President chose to veto it. We have a unique opportunity in this Congress to produce such a solution again. Let us work together on a bipartisan basis, let us seize the day, let us save Medicare.

TRIBUTE TO BRANDON K. SEARCY

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise on behalf of the citizens of Atlanta to mourn the loss and celebrate

the life of Brandon Searcy. Brandon Searcy was just 8 years old. He was the victim of a senseless and hideous crime.

Mr. Speaker, what kind of world do we live in when an 8-year-old child is stalked and preyed upon, when it is no longer safe for a child to walk a block to a school bus stop?

Brandon Searcy was a special child, a gifted child. He was the light and the joy of his mother Kimala Searcy. He loved school and he loved the Lord, and he was dedicated to both.

Brandon was a member of the First Norman Grove Baptist Church in Scottsdale, GA. He often took notes during the pastor's sermons, and he and sister, Algerica, would sing with joy their favorite song, "Shake the Devil Off."

Brandon was a second grade student at Cleveland Avenue Elementary School where he excelled as an honor student on the principal's list. He loved to play baseball and his ambition was to go to college and then become a professional baseball player.

Mr. Speaker, Brandon Searcy's favorite passage from the Bible was the 23d Psalm. It reads in part, "Surely goodness and mercy shall follow me all the days of my life, and I will dwell in the house of the Lord forever."

Brandon Searcy, Mr. Speaker, will surely dwell in the house of the Lord forever. He will be remembered and he will be missed by all who knew him and many who never had the good fortune. God bless Brandon Searcy.

WE NEED TRUTH IN LENDING AND TRUTH IN LEGISLATING

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I am very disappointed that so far in this Congress we have not yet seen any sincere effort to cut any spending. The latest ploy has been the Treasury report that claims the deficit is shrinking up to nothing. In the first 6 months of this year we are in deficit of $101 billion and this is claimed to be a victory, thus taking off the pressure to work harder to cut spending. How did they do this?

The first thing we did was we sent the IRS agents out and hounded the American people and collected $28 billion more than they did in the first 6 months of the last fiscal year. But they did something else. They keep borrowing from the trust funds. They borrow from the Social Security fund, further jeopardizing that whole program. Looking at the statistics more carefully, they claim the deficit is $111, but during the past 12 months our national debt went up $241 billion. There is no way to predict what the next 6 months will bring. Interest rates may rise, revenues may dwindle if the markets and the economy slumps.

I think that we ought to have some truth in lending and truth in legislating here by honestly telling the American people that there is something wrong here that could and should be adjusted with decreased spending, not raising taxes and not further robbing the Social Security trust fund.

MEDICARE TRUSTEES REPORT DUE TODAY

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Pennsylvania. Today, the Medicare trustees are due to report on the projected solvency of the Medicare part A trust fund. As we all recall, last year's report predicted the part A trust fund would be insolvent by the year 2001 without reform. We also know that in 1996 the trust fund lost $25 million a day and is now losing over $30 million a day.

Ladies and gentlemen of this House, this is unacceptable. The state of the Medicare Program warrants serious discussion proposing genuine solutions. A recent proposal introduced in the House would add provider-sponsored organizations to the managed care options available to Medicare beneficiaries. By allowing groups of affiliated providers to organize and deliver a broad base of health care services, we can offer new choices for quality care that is community based. For a rural district like mine, increased choice is a welcome opportunity. Whether your district is rural, urban, or suburban, we all know that localized solutions work best.

I ask Members to support that measure.

DEFENSE DIVERSIFICATION ON DISPLAY IN NEW FILM

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, this last Friday we celebrated Steven Spielberg's filming at a former defense facility, not a war movie but a movie about slaves who revolted and freed themselves. As exciting as the topic of the story is, it was exciting to see defense diversification at work. Sonalyst Studios has the best sound stage in America. It used the sound technology it developed during the cold war with submarines and submarine quieting to build a sound stage.

□ 1030

Now a company is diversified, helping the economy of eastern Connecticut, providing jobs and then entertainment for the country. While we are still suffering some of the effects of the defense downsizing and the bad economy of the early nineties, small companies like Sonalyst Studios Ship Analysis and Technologies are taking their defense technologies and diversifying, expanding our economy and building the economy of the entire country. This event Friday night was spectacular to see some of the best in the entertainment industry coming to eastern Connecticut. Using our facilities at Sonalyst Studios is hopefully going to set a pattern for years to come.

Mr. Speaker, we have still got pains in defense downsizing but it is exciting to see these companies using their own resources and investment to broaden their economic activity, benefiting the entire community.

Mr. DREIER. Mr. Speaker, will the gentleman yield for one moment?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would just like to say to my friend that we are happy to see the entertainment industry moving to Connecticut partially, but we want them to know that their home continues to be in southern California, and we hope very much they will continue to make base there.

Mr. GEJDENSON. Mr. Speaker, reclaiming my time, I would say that we are happy at this stage to just have a small piece of what is happening in southern California, and we will fight over the larger share later.

DEPUTY TREASURY SECRETARY COMPLETELY MISSES THE POINT ON DEATH TAXES

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, earlier this week the Deputy Treasury Secretary, Lawrence Summers, condemned efforts to ease Federal death taxes saying these were motivated by, and I am quoting him here, selfishness. I believe it is nothing short of an outrage for an administrative official who has such important influence over tax policy to make a statement like this.

Secretary Summers completely misses the point on death taxes. The fact is whether it is small business or family farmers or others, they spend thousands of hours and tens of thousands of dollars, in many cases a year, on estate planning to forestall the selloff of that family farm or that small business which results in the loss of jobs back at home in our districts. This is time and money that would be far better spent on buying new equipment and expanding operations so new jobs and more jobs and better wages can be created.

Now as we continue this debate we cannot lose sight of the heavy costs that death taxes impose each and every year on our communities and our country. If we stress this enough here in

Congress, hopefully the folks down at Treasury will finally open their eyes and ears to the real world.

JOIN IN COSPONSORING H.R. 14

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I rise to once again encourage my colleagues to join as cosponsors of H.R. 14, the bill that a number of Democrats and Republicans introduced on the opening day, to put 14 percent as the top rate on capital gains. My friend from New York was just talking about the administration's opposition to dealing with our attempt to repeal the death tax. I am happy to say on capital gains, the job creation and savings encouragement measure, that we have an indication of some support coming from the White House.

I hope very much that we can move beyond our 130-plus Democrats and Republicans as cosponsors because reducing the top rate on capital gains will early create jobs, increase the flow of revenues to the Federal Treasury, and by $1,500 a year increase the take-home pay for working Americans. Reducing the top rate on capital is in fact a family, permanent family tax cut, and I hope everyone will join in cosponsoring H.R. 14.

PROVIDING FOR CONSIDERATION OF H.R. 1274, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY AUTHORIZATION ACT OF 1997

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 127 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 127

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. 1274) to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. 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 Science 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. (Mr. BURTON of Indiana). The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. 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 may consume. During consideration of this resolution, Mr. Speaker, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 127 is an open rule providing for the consideration of H.R. 1274, the National Institute of Standards Technology Authorization Act of 1997. The purpose of the legislation is to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999. House Resolution 127 waives points of order against the consideration of the bill for failure to comply with the 3 day availability of committee reports rule. In addition the rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science.

After general debate, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each section shall be considered as read. Further, the Chair would be authorized to grant priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the National Institute of Standards and Technology is the Nation's oldest Federal laboratory, serving as the Nation's dispute arbiter of standards in complex technologies. I look forward to an open and full debate and will defer to the Committee on Science for an indepth explanation as to the bill's merits and complexities. The Committee on Rules' hearing on this bill was extremely cordial and bipartisan, which I believe is an accurate reflection of the manner in which the Committee on Science handled this legislation.

Mr. Speaker, the rule before us, I believe, is an exemplary rule, it is fair, it is completely open, and I would urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida for yielding the customary 30 minutes.

Mr. Speaker, I support this open rule which will allow us to consider H.R. 1247, the National Institute of Standards and Technology Act. NIST, as it is called is an essential institution because it works with the U.S. industries to develop and implement innovative technologies and electronics, supercomputers, and microwave communications for other agencies and private business.

H.R. 1274 includes two important programs which are not funded in last year's bill: the advanced technology program, ATP, and the manufacturing extension partnership. ATP encourages public-private cooperation in the development of technologies with broad application across industries. In my own district in upstate New York, ATP funds allow businesses like TROPEL Corp. and Eastman Kodak to produce new technologies that benefit our entire Nation. While I might have hoped for an authorization level closer to the President's request, I am encouraged that this year's bill does authorize ATP.

High technology of Rochester and another countless projects benefit from NIST's manufacturing extension program. This program helps small- and medium-sized manufacturing companies to utilize the technologies developed under the auspices of NIST. Manufacturing extension partnerships benefit all 50 States and Puerto Rico.

I encourage my colleagues to support this bill which will continue authorization for the NIST, the Nation's oldest Federal laboratory. I hope they will join me in supporting this open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I have no further speakers on the rule.

Ms. SLAUGHTER. Mr. Speaker, I have no speakers, and I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1273, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1997

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 126 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 126

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. 1273) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes. 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 Science. 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 Science now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title 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 Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. 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 may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 126 is an open rule providing for the consideration of House Resolution 1273, the National Science Foundation Act of 1997. The purpose of this legislation is to authorize the activities of the National Science Foundation for the fiscal years 1998 and 1999. House Resolution 126 provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science. After general debate, it shall be in order to consider as an original bill for purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each title shall be considered as read.

Further, the Chair will be authorized to grant priority in recognition to Members who have pre-printed their amendments in the CONGRESSIONAL RECORD, and the rule provides for one motion to recommit with or without instructions.

As is well known, Mr. Speaker, the National Science Foundation funds research and education activities in all fields of science and engineering at colleges and universities throughout the United States, and, Mr. Speaker, similar to the previous rule, the rule that we just adopted, this rule, 126, is open, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this open rule that will allow us to consider H.R. 1273, the National Science Foundation Authorization Act. The National Science Foundation contributes to the advancement of biological sciences, geosciences, mathematical and physical sciences, as well as scientific research and educational programs. In my own district of Rochester, NY, last year the NSF awarded $13 million in grants to support both basic and scientific research and high-tech development. Ninety-six NSF grants enabled scientists in my district to pursue critical work and optical science and engineering, advanced manufacturing technologies and virtual reality programs which can replace the real world in testing and debugging a system.

□ 1045

The NSF is the foundation for the countless scientific and technological advances that enable us to compete in the global economy.

We should pass this bill, which provides continued funding for the NSF. I urge my colleagues to support this open rule.

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1275, CIVILIAN SPACE AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 128 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 128

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. 1275) to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. 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 Science now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title 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 [Mr. DUNCAN]. The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, this is a very simple resolution. The proposed rule is an open rule providing for 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Committee on Science. The resolution waives points of order against consideration of the bill for

failure to comply with clause 2(L)(6) of rule XI. After general debate, the bill shall be considered for amendment under the 5-minute rule. Furthermore, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill.

Additionally, Mr. Speaker, House Resolution 128 provides that the committee amendment in the nature of a substitute shall be considered by title rather than by section. Moreover, the rule provides that the Chair may accord priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Mr. Speaker, at the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, under the proposed rule, each Member has an opportunity to have their concerns addressed, debated, and ultimately voted up or down by this body. House Resolution 128 was reported out of the Committee on Rules by a voice vote.

Mr. Speaker, the underlying legislation, H.R. 1275, the Civilian Space Authorization Act for fiscal years 1998 and 1999 is a bipartisan compromise that keeps the Nation's civilian space program on course.

Mr. Speaker, I urge my colleagues to support the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague, the gentleman from Colorado [Mr. MCINNIS] for yielding me this time. This is an open rule which will allow full and fair debate on H.R. 1275. This is a bill to reauthorize the National Aeronautics and Space Administration for fiscal years 1998 and 1999.

This bill is important to a lot of people, especially to my colleagues in the State of Ohio. My district is the home of the Wright Brothers and the birthplace of aviation, so Ohio is one of the top States for aerospace research through Wright-Patterson Air Force Base in Dayton and NASA Lewis Research Center in Cleveland.

The aerospace industry is estimated to employ nearly 300,000 workers in the State of Ohio and contributes nearly $23 billion to the total economy of the State.

As my colleague from Colorado [Mr. MCINNIS] has described, this rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Science.

Under the rule, amendments will be allowed under the 5-minute rule, the normal amending process in the House. All Members on both sides will have a chance and an opportunity to offer amendments. The rule does waive the clause in the House rules requiring 3-day availability for committee reports. However, given the open process and bipartisan support behind this bill, the Committee on Rules did not consider this a problem. The Committee on Rules approves this open rule unanimously by a voice vote, and I would urge adoption of the open rule and the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1271, FAA RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1997

Mr. LINDER. Madam Speaker, by the direction of the Committee on Rules, I call up House Resolution 125 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 125

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. 1271) to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 through 2000, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 306 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. 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 Science now printed in the bill. Each section of 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 section 306 of the Congressional Budget Act of 1974 are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. 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 (Mrs. MORELLA). The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Madam Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 125 is an open rule providing for consideration of H.R. 1271, the Federal Aviation Administration Research Engineering and Development Authorization Act of 1997. This rule provides for 1 hour of general debate, divided equally between the chairman and the ranking minority of the Committee on Science. The rule also waives points of order against consideration of the bill for failure to comply with section 306 of the Congressional Budget Act of 1997.

Madam Speaker, House Resolution 125 makes in order the Committee on Science amendment in the nature of a substitute as an original bill for the purpose of amendment, with each section being considered as read. The rule waives points of order against the committee amendment in the nature of a substitute for failure to comply with section 306 of the Congressional Budget Act of 1974.

Madam Speaker, this rule continues an approach that has been used effectively in recent Congresses by according priority and recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. The rule does not require preprinting but simply encourages Members to take advantage of the option in order to facilitate consideration of amendments on the floor and to inform Members of the details of pending amendments.

Finally, House Resolution 125 provides for one motion to recommit, with or without instructions, as is the right of the minority Members of the House.

Madam Speaker, this is a standard open rule, and the Committee on Rules has assured all Members who wish to modify the bill through the amendment process that they have every opportunity to offer their amendments.

Briefly, this legislation authorizes the Federal Aviation Administration's

research, engineering and development programs for fiscal years 1998 through 2000. The bill provides important funding to enhance computer and information systems security for air traffic management to prioritize weather research projects and reduce delays in aircraft accidents and to develop new technologies that will ensure air safety.

I want to commend the gentleman from Wisconsin [Mr. SENSENBRENNER], the chairman of the Committee on Science, for crafting legislation that will ensure the preservation and security of the national aerospace system as we work to meet the increased air traffic demands that are expected in the next century.

H.R. 1271 was favorably reported out of the Committee on Science, as was the open rule by the Committee on Rules. I urge my colleagues to support the rule so that we may proceed with general debate in consideration of the merits of this very important bill.

Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of this open rule and I rise in support of H.R. 1271, the Federal Aviation Administration Research, Engineering and Development Authorization.

Madam Speaker, the Committee on Science is to be commended for sending this legislation to the full House for its consideration. This bill, along with the others the House will consider today, are examples of what can happen when a committee sits down to do its work and includes all of its members, majority as well as minority, in its deliberations. Reauthorization of the research and engineering activities of the Federal Aviation Administration is an important matter to all Americans and especially to the flying public.

This legislation enhances the activities of the FAA in four important areas: Capacity and air traffic management, weather, environment and energy, and innovation and cooperative research. The Science Committee has recommended funding priorities for the FAA in the next 2 fiscal years, and the open rule recommended by the Committee on Rules will allow the House to fully debate these priorities and the appropriate levels of funding.

Madam Speaker, this legislation reflects what the real work of the Congress is all about: Taking care of the Nation's business. H.R. 1271 is not a bill which will grab headlines or make bold political statements. Instead, it is legislation which reviews and renews the activities of the Federal Government, upon which the people of this country depend to ensure their safety.

The committee system has been used to its best advantage because of the cooperative spirit demonstrated by the gentleman from Wisconsin [Mr. SENSENBRENNER], the chairman, and by the gentleman from California [Mr. BROWN], his ranking member. I commend them as well as the other members of the Committee on Science.

□ 1100

Mr. FROST. Madam Speaker, I yield back the balance of my time.

Mr. LINDER. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1031

Mr. FROST. Madam Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1031.

The SPEAKER pro tempore [Mrs. MORELLA]. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY AUTHORIZATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 127 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. 1274.

□ 1101

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. 1274) to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes, with Mr. DUNCAN 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 Wisconsin [Mr. SENSENBRENNER] and the gentleman from Tennessee [Mr. GORDON] each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to present H.R. 1274, the National Institute of Standards and Technology Authorization Act of 1997.

I would like to thank and congratulate the subcommittee chairwoman, the gentlewoman from Maryland [Mrs. MORELLA] and the ranking member, the gentleman from Tennessee [Mr. GORDON] for crafting such a fine bill.

H.R. 1274 authorizes all the programs under the Technology Administration in the Department of Commerce that require appropriations for fiscal years 1998 and 1999. The Technology Administration includes the Office of the Under Secretary and the Office of Technology Policy in NIST, which is responsible for the vast majority of programs that make up the Technology Administration.

Mr. Chairman, H.R. 1274 is a fiscally responsible bill. It authorizes $609 million for fiscal 1998, a decrease of over $92 million, or 13 percent from the administration's request.

In fiscal year 1999 the bill authorizes a total of $628 million, again $116 million or 16 percent below the administration's projected budget.

While spending less than the administration requested, the bill manages to do more. In authorizing NIST programs, the bill prioritizes funding for NIST laboratory functions, increasing their funding by 5 percent for fiscal 1998 and 3 percent for fiscal 1999, while reducing funding for lower priority programs such as the advanced technology program, and providing no funding for new administration initiatives such as the experimental program to stimulate competitive technology, or EPSCOT, for short.

Specifically, the bill authorizes $278.6 million for NIST laboratory activities in fiscal 1998 and $286.9 million in fiscal 1999. The NIST laboratories have been called the crown jewel of the Technology Administration, and H.R. 1274 will help ensure that they have sufficient funding to continue their vital work of safeguarding the accuracy of standards necessary for domestic and international commerce.

H.R. 1274 includes $117.8 million for the manufacturing extension program in fiscal 1998 and $111.3 million in fiscal 1999. These totals will allow for full funding of all 75 existing MEP centers and will cover the administrative costs associated with running the program.

The bill also reforms and authorizes reduced funding for ATP in fiscal 1998 and fiscal 1999. ATP is authorized at $185 million in 1998 and $150 million in fiscal 1999. These levels represent decreases of $40 million and $75 million, respectively, from the fiscal year 1997 appropriated total of $225 million. The bill further reforms the program's match requirements, requiring a 60 percent match from all joint venture grant recipients and non-small business single awardees.

To ensure that ATP grants are not simply displacing private capital, the bill also contains language requiring a review of ATP applications to ensure that an ATP grant is actually required in order to enable the project to go forward.

Finally, the bill authorizes funding for NIST critical maintenance and construction needs for fiscal 1998 and fiscal

1999. In order to ensure that construction funding is used in the most appropriate manner, H.R. 1274 includes a certification requirement precluding the Department from obligating any money to new construction unless it meets the requirements of NIST's new facilities plan.

Accordingly, the authorization language includes provisions to reduce scientific research earmarks, to require the Committee on Science to receive notice of any reprogramming of NIST funds, and to express the sense of Congress that NIST should address the year 2000 computer date field program.

Mr. Chairman, H.R. 1274 is a sound bill. It is fiscally responsible, and will help ensure that NIST programs, which are some of our Nation's most important technology research and development programs, receive the funding they require during the next 2 fiscal years.

I encourage all my colleagues to join me in supporting the National Institute of Science and Technology Authorization Act of 1997.

Mr. Chairman, I reserve the balance of my time.

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1274, the National Institute of Standards and Technology Authorization Act of 1997. This bill authorizes all the programs in the Technology Administration, including the programs of the National Institute of Standards and Technology.

H.R. 1274 represents bipartisan agreement on a sensible U.S. science and technology policy. As Chairman SENSENBRENNER stated, the bill before us today represents a number of changes to H.R. 1274 as introduced. I want to thank the chairman, the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentlewoman from Maryland [Mrs. MORELLA] for working with us to resolve some of our concerns.

My remaining reservation about H.R. 1274 centers around the funding level for the Advanced Technology Program. The funding level allows only for a modest number of new awards to be made in 1998, and allows for no new awards in 1999. Both authorization levels represent significant cuts below the fiscal year 1996 and fiscal year 1997 appropriated levels. One of the criticisms of the ATP has been the lack of thorough evaluation of the program. I would like to point out that this is a relatively new program, and only 42 projects have been completed.

In addition, the ATP has not had stable funding. As a result, we do not have the hard data needed to evaluate this program objectively and rationally.

With this reservation, I support H.R. 1274, which moves overall U.S. policy in the right direction. I urge my colleagues to support this bill, as well.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA], who is the chair of the subcommittee.

Mrs. MORELLA. Mr. Chairman, I thank the chairman of the full Committee on Science for yielding the time to me, and for the leadership that he has shown and that the gentleman from California [Mr. BROWN] as ranking member has shown on that committee.

I rise today in support of H.R. 1274, the National Institute of Standards and Technology Authorization Act of 1997, legislation that I introduced on April 10 of this year. The bill is, as has been mentioned, truly bipartisan. It has been cosponsored by the gentleman from California [Mr. BROWN], the gentleman from Tennessee [Mr. GORDON], the ranking members of both the full committee and the Subcommittee on Technology, as well as the gentleman from Michigan [Mr. EHLERS], the gentleman from Virginia [Mr. DAVIS], and the gentlewoman from Texas [Ms. JACKSON-LEE], all distinguished members of the Committee on Science.

NIST is the Nation's oldest Federal laboratory. It was established by Congress in 1901 as the National Bureau of Standards, and subsequently renamed NIST.

As a part of the Department of Commerce, NIST's mission is to promote economic growth by working with industry to develop and apply technology, measurements and standards. As the Nation's arbiter of standards, NIST enables our Nation's businesses to engage each other in commerce and participate in the global marketplace.

The precise measurements required for establishing standards associated with today's increasingly complex technologies require NIST's laboratories to maintain the most sophisticated equipment and the most talented scientists in the world. To date, NIST has succeeded, and the science conducted by the Institute is a vital component of the Nation's civilian research and technology development base.

H.R. 1274 authorizes $609 million for fiscal year 1998 and $628 million for fiscal year 1999 for the Technology Administration. NIST's programs account for all but $7 million of that total in fiscal year 1998.

The care of NIST's functions are conducted by NIST's laboratories. The bill prioritizes these functions, increasing their funding by 5 percent in fiscal year 1998 and 3 percent in fiscal year 1999. The increases will ensure that the laboratories have sufficient funding to maintain the high quality of their work, while expanding their services in three areas.

First of all, the bill includes a $2.5 million increase in the 1998 budget from the levels recommended by the administration for the physics program to support reengineering measurement services to simplify the delivery of measurement assurance at the point of use. This initiative should increase the accuracy and lower the cost of calibration for the end users of NIST standards.

Second, H.R. 1274 authorizes an additional $4 million for fiscal year 1998 for the Computer Science and Applied Mathematics Program to augment NIST work in the field of computer security. The increase is intended to enable NIST, through its programs, to improve computer security throughout the Federal Government.

Third, the bill includes a half million dollar increase in fiscal year 1998 from the levels recommended by the administration for the Technical Assistance Program to support improving measurement standards to facilitate international trade and provide additional funding to implement the National Technology Transfer and Advancement Act of 1995.

H.R. 1274 also authorizes funding for NIST's most critical maintenance and construction needs. The bill includes $16.7 million in fiscal year 1998 and $67 million in fiscal year 1999 for construction and maintenance of NIST facilities.

The funding is sufficient to cover the administration's request for maintenance in fiscal year 1998 and fiscal year 1999, and it includes $50 million in fiscal year 1999 for NIST's top new facility priority, the Advanced Metrology Laboratory. In order to ensure that the construction funding is used in the most appropriate fashion, H.R. 1274 includes the certification requirement precluding the Department from obligating any money to new construction unless it meets the requirements of NIST's new facilities plan.

In order to help offset these increase, the bill reduces funding for lower-priority programs at NIST, and in the Technology Administration.

Therefore, the bill includes a reduction of $40 million and $75 million to the Advanced Technology Program in fiscal years 1998 and 1999, respectively. While I support the ATP program, I believe H.R. 1274's authorizations of $185 million in fiscal year 1998 and $150 million in fiscal year 1999 are sufficient for the program.

H.R. 1274 also does not authorize funding for the $1.7 million Experimental Program to Stimulate Competitive Technology, called EPSCOT, and the $350,000 program in support of the administration's foreign policy.

Along with funding NIST's laboratories, H.R. 1274 also authorizes full funding of all 75 existing Manufacturing Extension Partnership Centers and the administrative costs that are associated with running the program for the next 2 years.

The bill also authorizes $4.1 million in fiscal year 1998 and $5.3 million in fiscal year 1999 for the Malcolm

Baldrige National Quality Program. These totals will allow for the program's expansion into education and health care over the next 2 years.

Finally, the bill contains a number of good Government provisions, including a sense of Congress on the year 2000 computer problem. As a strong proponent of addressing this impending crisis, I am pleased that this provision has not only been included in the NIST authorization bill, but all of the Committee on Science's authorizations.

I am hopeful that with continued pressure from the Committee on Science and from Congress, the administration will fix the problem before it is too late.

□ 1115

Mr. Chairman, H.R. 1274 is both fiscally responsible and scientifically sound. It will help NIST remain the world's foremost scientific research institution for the establishment of standards and the development of new technologies.

I encourage all my colleagues to join me in supporting the National Institute of Standards and Technology Authorization Act of 1997.

Again, my appreciation to the chairman of the full committee, the gentleman from Wisconsin [Mr. SENSENBRENNER], and the ranking member, the gentleman from California [Mr. BROWN], my ranking member, the gentleman from Tennessee [Mr. GORDON] of the Subcommittee on Technology and the members.

I also want to offer accolades to the staff who worked very hard on this inch by inch: on our side, Richard Russell and Ben Wu; on the minority side, Mike Quear and Jim Turner.

Mr. GORDON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN], ranking member on the Committee on Science.

Mr. BROWN of California. Mr. Chairman, I thank the ranking minority member of the subcommittee, the gentleman from Tennessee [Mr. GORDON], for yielding me this time.

I rise in support of H.R. 1274. I support most of the funding provisions, although I have a few reservations which the subcommittee ranking member has pointed out.

Many of our concerns were resolved in the manager's amendment offered during the markup and the committee adopted an amendment, the Boehlert-McHale amendment, which lifts the 6-year cap on Federal support for manufacturing extension partnership centers, which helps to assuage some of my problems with the bill.

There are a few additional matters which we hope to continue to work with the majority on during the further progress of the bill. I am confident that I can safely urge my colleagues to support the bill.

In conclusion, let me add a word about the legislative progress of this bill. Most of my colleagues will not recall, but we had some problems with this bill last year. I remember them very vividly because they represented a situation which I felt both the process and the results were wrong.

I only make this statement, not to rehash the past, but to point out the marked difference in process and content this year and to praise the chairman of the full committee, the gentleman from Wisconsin [Mr. SENSENBRENNER] for his spirit of cooperation with the minority, his evenhanded management of the committee, and for all of his other many good traits which I really never suspected until I saw him in action as chairman during the course of these last few months.

It has been a pleasure to work with him. I look forward to continuing the cooperative relationship that we have had and to continue to produce the good work which I know our committee is capable of doing.

Mr. COOK. Mr. Chairman, thank you for this opportunity to share my concerns about the Advanced Technology Program. First, let me say I am a strong believer in research and development. My own explosives manufacturing business stems from my father's research into ammonium nitrate. After considerable research and development of new, safe, low-cost explosives, two successful companies were founded that to this day provide hundreds of jobs to people in Utah and other States.

Research and development is the backbone of competitive enterprise. But I do not believe that the Advanced Technology Program is the best way to encourage corporate research and development. This program has some troubling flaws. I think it would be irresponsible to give $40 million more to a program that has the problems ATP has.

Let me give you an example of one problem. ATP is designed to fund long-term, high-risk programs that would not be funded by the private sector. To qualify, applicants must assure the Government that they could not get funding anywhere but from the ATP. They make that assurance in writing. Yet, a recent poll by the General Accounting Office of those who received ATP funding showed that fully half acknowledged they could have obtained funding somewhere else or would have gone ahead with their research without outside funding.

That tells us the money isn't going to the projects ATP was designed to fund: Research projects that would never be done if it wasn't for ATP.

That's a serious problem. Now, the Democrats want to toss another $40 million of taxpayers' hard earned money into this program without correcting that flaw. President Clinton would like to go farther, throwing another $275 million into the ATP in the next 4 years, more than doubling the size of the program.

Ladies and gentlemen, this is nothing more than corporate welfare. And not even very efficient corporate welfare, since apparently half of the companies that have received money from ATP could have gotten the money privately. That means tens of millions of taxpayer dollars—maybe hundreds of millions of dollars—that could have been spent to build roads and improve our schools, or reduce our Federal deficit was spent to assist companies that apparently didn't need governmental assistance. If we are serious about getting Federal spending under control, that thought should be deeply troubling to each of us.

This amendment is the very thing American taxpayers are sick of. The lavish, reckless corporate welfare of this amendment is the kind of excess that appalls and angers our constituents. This program has already grown 2,150 percent in just 7 years. And now the Democrats want to fatten it even more. If President Clinton gets his way, by 2002, funding for the ATP will be 5,000 percent greater than it was in 1990. In 1990, Congress gave it $10 million. By 2002, President Clinton wants it to receive half a billion dollars. If that isn't an example of the runaway Federal program frightened Americans talk about, I don't know what is.

What shocks me most is that this amendment would pour tens of millions more into it and President Clinton and the Democrats want to pour hundreds of millions more dollars into a program that has not, from 1990 to today, been able to spend all of the money it has been given. As a fiscal conservative, that stuns me. In 1990, ATP carried over $9.3 million of the $10 million it was given. Those carryovers have swollen year to year. Last year, ATP carried over $168 million. And now we want to give ATP $40 million more?

Ladies and gentlemen, when some politicians tell me we can't balance our Federal budget, I want to point to programs like ATP.

If we want to get our Federal spending under control, let's start here. If we have any regard at all for how hard our constituents work for their money, we can't throw $40 million more of their hard-won dollars away on this program. If we are serious about getting a bloated Federal budget under control, we will reject this amendment. Mr. Chairman, I yield back the remainder of my time.

Mr. GORDON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment. Pursuant to the rule, each section is considered as having been read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has preprinted in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been 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 "National Institute of Standards and Technology Authorization Act of 1997".

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.

(a) LABORATORY ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce for the Scientific and Technical Research and Services laboratory activities of the National Institute of Standards and Technology—

(1) $278,563,000 for fiscal year 1998, of which—

(A) $38,104,000 shall be for Electronics and Electrical Engineering;

(B) $18,925,000 shall be for Manufacturing Engineering;

(C) $31,791,000 shall be for Chemical Science and Technology;

(D) $30,372,000 shall be for Physics;

(E) $50,914,000 shall be for Material Science and Engineering;

(F) $13,404,000 shall be for Building and Fire Research;

(G) $47,073,000 shall be for Computer Science and Applied Mathematics;

(H) $19,376,000 shall be for Technical Assistance; and

(I) $28,604,000 shall be for Research Support; and

(2) $286,919,890 for fiscal year 1999, of which—

(A) $39,247,120 shall be for Electronics and Electrical Engineering;

(B) $19,492,750 shall be for Manufacturing Engineering;

(C) $32,744,730 shall be for Chemical Science and Technology;

(D) $31,283,160 shall be for Physics;

(E) $52,441,420 shall be for Material Science and Engineering;

(F) $13,806,120 shall be for Building and Fire Research;

(G) $48,485,190 shall be for Computer Science and Applied Mathematics;

(H) $19,957,280 shall be for Technical Assistance; and

(I) $29,462,120 shall be for Research Support.

(b) MALCOLM BALDRIGE NATIONAL QUALITY PROGRAM.—There are authorized to be appropriated to the Secretary of Commerce for the Malcolm Bladrige National Quality Program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a)—

(1) $4,134,500 for fiscal year 1998; and

(2) $5,289,000 for fiscal year 1999.

(c) CONSTRUCTION AND MAINTENANCE.—(1) There are authorized to be appropriated to the Secretary of Commerce for construction and maintenance of facilities of the National Institute of Standards and Technology—

(A) $16,692,000 for fiscal year 1998; and

(B) $67,000,000 for fiscal year 1999.

(2) None of the funds authorized by paragraph (1)(B) for construction of facilities may be obligated unless the Secretary of Commerce has certified to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that the obligation of funds is consistent with a plan for meeting the facilities needs of the National Institute of Standards and Technology that the Secretary has transmitted to those committees.

The CHAIRMAN. Are there any amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNDER SECRETARY FOR TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Commerce for the activities of the Under Secretary for Technology and the Office of Technology Policy—

(1) $7,000,000 for fiscal year 1998; and

(2) $7,205,000 for fiscal year 1999.

The CHAIRMAN. Are there any amendments to section 3?

The Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR INDUSTRY TECHNOLOGY SERVICES.

There are authorized to be appropriated to the Secretary of Commerce for the Industrial Technology Services activities of the National Institute of Standards and Technology—

(1) $302,900,000 for fiscal year 1998, of which—

(A) $185,100,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) $117,800,000 shall be for the Manufacturing Extension Partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l); and

(2) $261,300,000 for fiscal year 1999, of which—

(A) $150,000,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) $111,300,000 shall be for the Manufacturing Extension Partnerships program under section 5 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 5. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.

(a) AMENDMENTS.—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) by striking "or contracts" in subsection (b)(1)(B), and inserting in lieu thereof "contracts, and, subject to the last sentence of this subsection, other transactions";

(2) by inserting "and if the non-Federal participants in the joint venture agree to pay at least 60 percent of the total cost of the joint venture during the Federal participation period under this section, which shall not exceed 5 years," in subsection (b)(1)(B) after "participation to be appropriate,";

(3) by striking "(ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii)" in subsection (b)(1)(B), and inserting in lieu thereof "and (ii)";

(4) by striking "and cooperative agreements" in subsection (b)(2), and inserting in lieu thereof ", cooperative agreements, and, subject to the last sentence of this subsection, other transactions";

(5) by striking ", provided that emphasis is" in subsection (b)(2) and inserting in lieu thereof "on the condition that grant recipients (other than small businesses within the meaning of the Small Business Act) provide at least 60 percent of the costs of the project, with emphasis";

(6) by adding after subsection (b)(4) the following:

"The authority under paragraph (1)(B) and paragraph (2) to enter into other transactions shall apply only if the Secretary, acting through the Director, determines that standard contracts, grants, or cooperative agreements are not feasible or appropriate, and only when other transaction instruments incorporate terms and conditions that reflect the use of generally accepted commercial accounting and auditing practices.";

(7) in subsection (d)(1), by inserting "and be of a nature and scope that would not be pursued in a timely manner without Federal assistance" after "technical merit"; and

(8) by adding at the end the following new subsections:

"(k) Nothwithstanding subsection (b)(1)(B) and subsection (d)(3), the Director may grant extensions beyond the deadlines established under those provisions for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government and it is in the Federal Government's interest to do so.

"(l) The Secretary, acting through the Director, may vest title to tangible personal property in any recipient of financial assistance under this section if—

"(1) the property is purchased with funds provided under this section; and

"(2) the Secretary, acting through the Director, determines that the vesting of such property furthers the objectives of the Institute.

Vesting under this subsection shall be subject to such limitations as are prescribed by the Secretary, acting through the Director, and shall be made without further obligation to the United States Government.".

(b) ADDITIONAL AMENDMENTS.—(1) Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is further amended by striking the period at the end of the first sentence of subsection (d)(11)(A) and inserting in lieu thereof the following: "or any other participant in a joint venture receiving financial assistance under this section, as agreed by the parties, notwithstanding the requirements of section 202 (a) and (b) of title 35, United States Code.".

(2) The amendment made by this subsection shall be effective only with respect to assistance for which solicitations for proposals are made after the date of the enactment of this Act.

SEC. 6. MANUFACTURING EXTENSION PARTNERSHIP PROGRAM CENTER EXTENSION.

Section 25(c)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by striking ", which are designed" and all that follows through "operation of a Center." and inserting in lieu thereof ". After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed the proportion of the capital and annual operating and maintenance costs of the Center received by the Center during its sixth year of operation.".

SEC. 7. MALCOLM BALDRIGE QUALITY AWARD.

Section 17(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amended by inserting ", unless the Secretary determines that a third award is merited and can be given at no addition cost to the Federal Government" after "in any year".

SEC. 8. NEXT GENERATION INTERNET.

None of the funds authorized by this Act, or any other Act enacted before the date of the enactment of this Act, may be used for the Next Generation Internet. Notwithstanding the previous sentence, funds may be used for the continuation of programs and activities that were funded and carried out during fiscal year 1997.

SEC. 9. LIMITATIONS.

(a) PROHIBITION OF LOBBYING ACTIVITIES.—None of the funds authorized by this Act shall be available for any activity whose purpose is to influence legislation pending before the Congress, except that this subsection shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

(b) LIMITATION ON APPROPRIATIONS.—No sums are authorized to be appropriated to the Director of the National Institute of Standards and Technology for fiscal years 1998 and 1999 for the activities for which sums are authorized by this Act, unless such sums are specifically authorized to be appropriated by this Act.

(c) ELIGIBILITY FOR AWARDS.—

(1) IN GENERAL.—The Director of the National Institute of Standards and Technology shall exclude from consideration for grant agreements made by the Institute after fiscal year 1997 any person who received funds, other than those described in paragraph (2), appropriated for a fiscal year after fiscal year 1997, under a grant agreement from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this subsection shall be effective for a period of 5 years after the person receives such Federal funds.

(2) EXCEPTION.—Paragraph (1) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

(3) DEFINITION.—For purposes of this subsection, the term "grant agreement" means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

SEC. 10. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) NOTICE OF REORGANIZATION.—The Secretary of Commerce shall provide notice to the Committees on Science and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 15 days before any major reorganization of any program, project, or activity of the National Institute of Standards and Technology.

SEC. 11. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the National Institute of Standards and Technology should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Institute posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Institute is unable to correct in time.

SEC. 12. BUY AMERICAN.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(c) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of Commerce shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

The CHAIRMAN. Are there any amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore [Mr. DREIER] having assumed the chair, Mr. DUNCAN, 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. 1274) to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes, pursuant to House Resolution 127, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 126 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 1273.

□ 1122

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. 1273) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes, with Mr. DUNCAN 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 Wisconsin [Mr. SENSENBRENNER] and the gentleman from California [Mr. BROWN], each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of H.R. 1273, the National Science Foundation Act of 1997. It is particularly appropriate that the House consider this legislation at this time because this week is National Science and Technology Week. This House can be proud of the work of the Members on both sides of the aisle in developing the blueprint of the 105th Congress for strong support of research, development, and science education.

The National Science Foundation provides funding to over 19,000 research and education projects in science and engineering annually. It does this through grants and cooperative agreements to more than 2,000 colleges, universities, K–12 schools, businesses and other research institutions in all parts of the United States. The foundation accounts for about 25 percent of Federal support to academic institutions for basic research.

This 2-year authorization improves our investment in America by strengthening our commitment to the National Science Foundation. The bill authorizes approximately $3.5 billion for fiscal year 1998. The bipartisan support for this bill demonstrates the committee's belief that the support of basic research will provide America with the lead role for science in the future. It is through basic research that we will make the fundamental discoveries that will become the economic drivers in the 21st century.

H.R. 1273 provides for $2.56 billion, or a 5.4-percent increase over fiscal year 1997, in the research and related activities account. In fiscal year 1999, the bill

then further increases the RR&A account to $2.74 billion, a 7-percent increase over fiscal year 1998. The research and related activities account is NSF's primary account. It provides the resources that allow the United States to uphold world leadership in a variety of science and engineering activities.

This legislation follows through on the committee's commitment to improve math and science education. In the Education and Human Resources Directorate, the bill incorporates the President's request of $625 million, a 1.1-percent increase over fiscal year 1998, and then provides 3 percent growth in this program to over $644 million in fiscal year 1999.

The major research equipment account completes funding for the construction of the Laser Interferometer Gravitational Wave Observatory Program, LIGO, for short. This account provides funds for two new programs: the Millimeter Array Radio Telescope and the Polar Cap Observatory. The MMA will be the world's most sensitive, highest resolution millimeter-wavelength telescope and will provide a testing ground for theories of star birth, galaxy formation and the evolution of the universe. The Polar Cap Observatory will provide new measurement capabilities for studying and monitoring space weather, the conditions in space environment that can influence the performance of satellites, affect power grids and disrupt telecommunications.

In addition, the bill provides for the one time, full authorization of the Antarctic Rehabilitation Program. As the distinguished chairman of the NSF's External Review Panel on Antarctic Programs, Norm Augustine, testified before our committee:

> It's our belief we would not send a ship to sea or a spacecraft to orbit in the condition of the facilities that we have at the pole.

I am proud to say this legislation fully authorizes the resources necessary to rebuild the facilities in Antarctica and protect the health and safety of our scientists as well as the very fragile Antarctic environment.

In our drive to hold down expenses, the salaries and expense account of NSF has been held to approximately 2-percent growth in fiscal years 1998 and 1999. The committee commends NSF for their low overhead rate and expects them to continue to maximize efficiency and productivity.

Finally, the Office of the Inspector General is funded at the President's request for fiscal year 1998 and provided a 3-percent growth in fiscal year 1999.

I wish to express my appreciation to the chairman of the Basic Research Subcommittee, the gentleman from New Mexico [Mr. SCHIFF], the ranking minority member of the subcommittee, the gentleman from Michigan [Mr. BARCIA], and the gentleman from California [Mr. BROWN], ranking minority members of the full committee, for their efforts and support in crafting a bipartisan bill that received overwhelming support in the Committee on Science. I believe that this is an outstanding bill and urge Members to support H.R. 1273.

Mr. Chairman, I reserve the balance of my time.

Mr. BARCIA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the National Science Foundation authorization bill, House Resolution 1273, which was developed in a bipartisan manner by the Committee on Science. House Resolution 1273 signals the strong bipartisan support for the key role of the NSF in developing and sustaining the academic research enterprise of this Nation. NSF is the only Federal agency with the sole mission to support basic science and engineering research as well as education in our Nation's schools, colleges and universities. NSF programs support research in science and engineering, the operation of national research facilities, and science education at all levels of instruction. Such wide-ranging activities underpin the technological strength of our Nation through both the generation of new knowledge and the continued education of our scientists and engineers.

In light of NSF's important role, I am pleased that House Resolution 1273 provides real growth for those NSF research activities which support individual investigators and interdisciplinary research teams.

□ 1130

The authorization level increases in each year of the bill are above what is needed to offset inflation and, therefore, will allow NSF to pursue new initiatives in such areas as distributive intelligence and life in extreme environments, while sustaining core research activities in the major science and engineering disciplines. The research investments made by NSF generate the new knowledge that fuels our Nation's technological innovation and ultimately dictates our future economic strength.

Mr. Chairman, I would like to describe some recent examples that show the breadth and potential technological value resulting from NSF-sponsored research.

Materials scientists at Cornell University, for example, have investigated the characteristics of silk fiber spun by the golden orb weaving spider, which are stronger than steel and more elastic than Kevlar. In fact, through the tools of biotechnology, it is now possible to manufacture designer materials by producing genes which can express large amounts of this super strength material. The practical applications for such technologies are simply enormous.

Power plants emit high levels of nitrogen oxides, which are health hazards and cannot be completely eliminated by using current catalysts. Researchers at Penn State University discovered a family of novel rare-earth catalysts which can remediate nitrous oxide in flue gas and thereby enable the design of a new process which support environmentally safe power plants.

At the University of Michigan the Center for Ultrafast Optical Science is working with ultrashort laser pulses in developing important applications to ophthalmology. Ultrashort laser pulses are composed of only a few optical cycles in light, and their duration is measured in femtoseconds. One femtosecond is one millionth of one billionth of a second. Ablation of material with femtosecond pulses is extremely clean in contrast to ablation performed by traditional lasers with a pulse duration 1,000 times longer. As very fine and accurate surgical cuts can be made without any collateral damage using ultrafast lasers, these devices are the perfect scalpel.

In addition to supporting basic research, NSF programs help educate the next generation of scientists, engineers and technicians as well as improve science education for all of our K–12 students. Such outcomes are realized through a wide range of NSF activities, including graduate student support, research experience for undergraduates, development of curricular materials for science courses at all levels of instruction, development of educational applications of computer and communications technologies, and in-service training for K–12 teachers.

I would particularly like to mention the NSF Advanced Technology Education Program, which is targeted for 2-year institutions. The program supports curriculum faculty development to improve the training of technicians critical to the high performance workplace. The ATE Program attains its goals through partnerships among 2-year institutions, universities, business, and industry.

House Resolution 1273 supports the President's request for the education and human resources activities of NSF and provides sufficient growth in a second year to offset the effects of inflation. The bill will sustain existing programs while the basic research subcommittee reviews the impact of education programs during this Congress.

Finally, the bill accepts the recommendation of the distinguished panel assembled by NSF to review the facilities necessary for the U.S. Antarctic program, which has also been very eloquently and comprehensively explained by our outstanding chairman, the gentleman from Wisconsin [Mr. SENSENBRENNER], and authorization also is provided to allow for replacement, as the chairman explained,

of the South Pole Station and for needed upgrades at other Antarctic stations.

The value of research programs and the importance of the U.S. presence in Antarctica has been expressed by the administration and outside witnesses at committee hearings over the past 2 years. This bill will ensure that U.S. facilities in Antarctica are capable of supporting the most advanced research and will provide adequate safety for the scientists and support staff who must function in this very hostile environment.

I want to thank the gentleman from New Mexico [Mr. SCHIFF], the chairman of the Subcommittee on Basic Research, for his efforts to develop House Resolution 1273 in a great spirit of cooperation, and also especially commend the gentleman from Wisconsin [Mr. SENSENBRENNER], the chair of the Committee on Science, as well as the gentleman from California [Mr. BROWN], an outstanding ranking Democratic member, for their leadership in moving the bill through the committee and to the floor.

Mr. Chairman, I fully support H.R. 1273 and urge its approval by the House.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN], the distinguished former chairman of the Committee on Science in the House of Representatives.

Mr. BROWN of California. Mr. Chairman, I thank the ranking member very much for yielding me this time, and I also want to commend him for the excellent work he is doing in his initial efforts as a ranking member of this very important subcommittee. I know that he will continue to do an excellent job in that regard.

It is hardly necessary to speak in support of the National Science Foundation, since it has long enjoyed bipartisan support and continued budgetary growth. Not always as much as I would like, but in this particular bill and under these circumstances, I think that the budgetary growth which has been set forth by the chairman of the full committee represents a very reasonable program, and I am happy to commend him for that.

I will not belabor all of the good points that I could make about the NSF, but I do want to say something about a very small line item which is in the bill that has not been in there before, and that is a provision providing for authorization of about a million dollars for international science cooperation through the funding of the United States-Mexico Foundation for Science.

This foundation contributes to the scientific and technological strength of each country through fostering research and human resource development, and promoting collaborative solutions to common problems.

Since this foundation was established in 1992, the United States-Mexico Foundation has established a proven track record of supporting high quality international research. The additional funding authorized by this bill, which will be matched by Mexico, will enable the foundation to expand its activities from its current very small base and will thereby further advance United States-Mexican scientific and technological cooperation.

We hope other U.S. agencies will likewise be able to support some of this binational research in areas that is focused on their individual missions, and we are looking forward to gradually building up a substantial base of funding for this very important binational research.

I should mention here that I had the opportunity and the pleasure to visit with the leadership of the Mexican Government and Mexican scientific establishment just a few weeks ago to discuss the progress of the binational foundation, and I found uniform support at every level, from the president, through his science adviser, through the Secretary of State, and many other agencies, and all of the leading scientific institutions in Mexico, who wanted to continue this program and have it reach a reasonable level over the next several years, and we look forward to working with them in achieving this.

I also want to conclude by not extolling again the chairman of the full committee and the chairman of the subcommittee, the gentleman from New Mexico [Mr. SCHIFF], but to include by reference the laudatory remarks I made previously about the gentleman from Wisconsin [Mr. SENSENBRENNER]. It would be rather repetitious to say that on each one of these bills. But he has done a great job and we look forward to continued cooperative relationships with him.

Mr. Chairman, I urge every Member to support this excellent bill.

Mr. BARCIA. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, I thank the gentleman for yielding the time.

Anyone who followed the debate over these matters in the last Congress knows that this House took a very short detour from our traditional and long-term path of bipartisan support for research and development and particularly for the work of the National Science Foundation. It was a path that the New York Times said would actually cripple American science.

Fortunately, we have a new day and we are now back on the path of a bipartisan commitment to research and development. While we have a few differences over certain specifics of this bill and of other legislation that is being considered today, on the whole, we have agreement; and it is a testament to the work of the gentleman from Wisconsin [Mr. SENSENBRENNER] to the gentleman from California [Mr. BROWN], to the gentleman from Michigan [Mr. BARCIA], and to the gentleman from New Mexico [Mr. SCHIFF], their leadership, that we have come together once again to pursue support for science and for research and development from the Federal level.

This National Science Foundation bill represents a slight increase over what we did in the Congress last year and over what President Clinton has requested. It would appear that we have found some consensus on just how vital funding for scientific research is, its importance in fostering scientific discovery and jobs that that discovery will produce.

Our worldwide leadership in science and technology is a source of great pride and satisfaction for millions of Americans but, more importantly, it is a source of future jobs for millions of our young Americans who will be entering the job market in future years.

Now we can talk about ways that this Congress can improve the lives of Americans; and there is little that we cannot accomplish through realistic investments in science and technology to produce those high-skill, high-wage, high-tech jobs in the future.

The area that I represent in and around Austin, TX is a good example. The investment made through the National Science Foundation through related programs of Federal investment in research and technology has provided the engine for economic growth, has attracted considerable private investment, and has provided us the kind of economic problems that the rest of the country would like to have, that being that we need, we have a shortage actually of many individuals in the high-skilled area to fill jobs that are being created each month by our high-tech industries.

Clearly, our Nation is in a fight on the economic front around the world; and if we are to remain competitive and if we are to be able to produce the kind of jobs that we need for our population, it will be through the kind of investment that we are making today in this National Science Foundation bill and in other bills to place America first when it comes to research, when it comes to science and technology.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Texas [Mr. SESSIONS].

Mr. SESSIONS. Mr. Chairman, it is with great encouragement that I stand up today to rise to commend the chairman of the House Committee on Science for working very diligently on the bill H.R. 1273. I stand today as a proud member and a supporter of the committee as an advocate for research and development on the types of things

that will make a real impact and make a difference in our country.

This bill corrects years of neglect and promotes the most fiscally responsible part of our Federal budget. Research and development provides exponential returns to the taxpayer and enables our country to continue its long history of pressing the envelope of math, science, and technology.

□ 1145

As a freshman Member I was very encouraged by the hearings on this bill and others that were reported out by our Committee on Science last week. Throughout the hearings, there was a bipartisan support, not only that we have heard today from other Democrat Members of Congress, but also those on the committee who feel that if we have a competitive grant process and united feelings against specific earmarks of funds, we can make better progress. I believe both of these efforts have led to a bill that is proeconomic growth and for fiscal responsibility.

I also believe that this bill actively attacks one of the most serious problems with America in education today. According to the third international mathematics and science study, eighth grade math and science students in the United States are considerably average when compared to students in developing countries. Average students are not going to keep the United States of America ahead of our foreign competitors and other competitors around the globe. As a nation, it is imperative that we encourage students, teachers, and administrators to focus their efforts on basic math and science skills. By providing competitive incentives, we have signaled our commitment to encourage these important skills and opportunities.

Finally, our focus on competitive grants highlights a unique American way that we can solve our problems. Incentives and encouragement lead to productive answers and innovative solutions. This method is in direct conflict with many of the reforms circulating around Washington today. It seems that some of my colleagues think a Federal mandate can solve everything, but I think that really we have the answer when we talk about regulations and mandates that are put on people. I believe that a Federal mandate has never educated a student, inspired a scientist or invented the next generation in technology. However, the human desire to succeed has brought America more innovative ideas and scholastic achievements than a room of bureaucrats can think of in a lifetime.

I think what we need to do is to support H.R. 1273, and I rise in support of that and wish to thank the gentleman from Wisconsin [Mr. SENSENBRENNER], the chairman, for not only his leadership but help in this process.

Mr. BARCIA. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Chairman, I rise also in favor of this bill to reauthorize the National Science Foundation. As a new Member of the Congress, I must say that the bipartisan cooperation that has brought forward this legislation has been an example for the rest of the House to follow. I want to commend and thank the gentlewoman from Maryland [Mrs. MORELLA], chairman; the gentleman from Tennessee [Mr. Gordon], ranking member; the gentleman from Wisconsin [Mr. SENSENBRENNER], chairman; and my esteemed colleague, the gentleman from California [Mr. BROWN] for their outstanding work on this legislation.

The bill before us today provides a healthy and worthy increase for the National Science Foundation. While I support the research community's call earlier this year for a 7-percent increase in science research and development, I am encouraged by the funding levels that this bill contains in these tight budgetary times.

I have spent my professional life prior to coming here engaged in teaching and research, so I have a sincere appreciation for the critical role of research and education in our society. The National Science Foundation's mission to sponsor research and encourage new thinking and education is a critical element for our economic growth as we move into the 21st century. Much is said today about the need to educate our children for our increasingly competitive economic environment. I agree with this viewpoint.

However, I also believe that education inspires individual and personal growth which inevitably leads to a more civilized and prosperous society. This is also what NSF programs achieve. The bill is evidence of the support that NSF has in the House and throughout the country. I urge my colleagues to support this legislation.

Mr. BARCIA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Chairman, I will take just a moment to rise to commend both the chair of the committee and the ranking member of the committee as well as the ranking member of our subcommittee dealing with the National Science Foundation for the excellent work and the bipartisanship that has come from the Committee on Science this year. As a first-term Member, I am very pleased to be a part of a committee that is focused and committed to investing in scientific research and development, technology development, environmental research, and efforts through the National Science Foundation. Very important efforts are taking place on behalf of this country that are critical to our economic competitiveness in the future.

We no longer as a country are looking at competition, business to business or State to State. It is definitely country to country. Our ability to maintain our economic advantage is only as strong as our willingness to invest in basic research and the development of technology in partnership with business. I am extremely pleased that the NIST budget has passed and that the advanced technology program and other important partnership efforts have been included this year that are critical. The National Science Foundation has a very important base that has been adopted by this committee. I would like to again commend our leadership on both sides of the aisle for a strong vision and commitment, and I am hopeful that we will be successful in maintaining this throughout the process.

Ms. HOOLEY of Oregon. For almost 50 years, the National Science Foundation has worked to expand the core of knowledge that has broadened our horizons in almost every field of science, engineering, and mathematics. We may not always see such direct applications of most of the research, but advancements in understanding of our planet, the composition of life, and the elements of technologies enrich our lives.

Equally important in the mission of the NSF is its dedication to integrating education into its activities. Obviously, future scientific successes hinge on society's ability to train students to understand the fundamentals of current knowledge.

In conducting research, undergraduate and graduate students must have adequate opportunities to learn from direct experience. And precollege students should not be left out of the picture. I can tell you as a former educator—and I know that many of my colleagues will agree—that if our students do to learn the basics of science in their youth, we will be hard pressed to find interested and prepared students at the higher levels.

We must also remember that scientific education extends beyond the immediate research community. If our Nation's populace does not understand the issues facing our national science policies, they cannot make informed decisions that affect those policies.

I understood the rationale for keeping the education and human resources accounts in check, and I look forward to further inquiries by this body into the successes of the programs in this category. However, pending such a review, I think that we should further expand our educational programs within the NSF and other agencies.

We have an obligation to do as much as possible to support education, and in particular, the improvement of our students' math and science skills. I urge my colleagues to vote for this legislation.

Mr. SCHIFF. Mr. Chairman, I rise in support of H.R. 1273, The National Science Foundation Act of 1997. I am proud to have introduced this legislation.

This 2-year authorization provides real growth to the National Science Foundation. To briefly summarize its provisions:

The President's fiscal year 1998 request for NSF is $3.367 billion, a 3-percent increase over the fiscal year 1997 appropriation levels. This bill authorizes over $3.505 billion for fiscal year 1998, a 7.2-percent increase over fiscal year 1997.

Within the individual appropriations accounts, the bill authorizes $2.563 billion, or a 5.4-percent increase over fiscal year 1997, in the Research and Related Activities [R&RA] account. In fiscal year 1999, the bill increases the R&RA account to $2.740 billion, a 7-percent increase over fiscal year 1998.

In the Education and Human Resources Directorate, this bill incorporates the President's request of $625.5 million, a 1.1-percent increase over fiscal year 1998, and then provides for 3-percent growth in this program to over $644 million in fiscal year 1999.

The major research equipment account completes funding for the Laser Interferometer Gravitational Wave Observatory [LIGO] program. This account provides funds for two new programs: the Polar Cap Observatory and the Millimeter Array radio telescope. In addition, this bill provides $115 million for the one time, full authorization, of the Antarctic rehabilitation program.

The salaries and expense account has been held to approximately 2-percent annual growth in fiscal year 1998 and fiscal year 1999. The committee commends NSF for their low overhead rate and expects them to continue to maximize efficiency and productivity.

The office of the inspector general is funded at the President's request for fiscal year 1998 and provided 3-percent growth in fiscal year 1999.

I urge my colleagues to support this legislation.

Before closing, I would like to remind my colleagues that this week is National Science and Technology Week. National Science and Technology Week is an informal and public education outreach program of the National Science Foundation, dedicated to expanding the participation by all Americans in the fields of science, technology, and engineering. Since its inception in 1985, National Science and Technology Week has gradually expanded in scope and impact, involving millions of Americans in national and local events.

National Science and Technology Week is celebrated across the country, providing special opportunities in communities throughout the Nation to notice the major impact and importance that science and technology have on all aspects of daily life. The National Science Foundation presents this full week of informal science and engineering activities annually in April. This year's celebration, April 20–26, 1997, has the them of "Webs, Wires & Waves: The Science and Technology of Communication." This them recognizes the priceless impact that communications has had in shrinking the world and bringing people worldwide closer together. It allows individuals to take the opportunity to explore questions about communications, both those of nature as well as technology.

The National Science Foundation attempts to reach its audience through various resources, especially the National Science and Technology Week Regional Network in 46 sites across the country, including a site in New Mexico. The Space Center in Alamogordo, NM is very instrumental in providing training workshops for teachers and planning interactive, hands-on science events. These sites are resourceful in assisting in the distribution of education materials, which are issued annually, both in English and Spanish. These packets assist both formal and informal educators and parents in engaging children in innovative, hands-on learning activities geared to science, mathematics, and technology.

Many of the activities this year will present new opportunities to engage the curiosity of ordinary people everywhere, affected daily by new capabilities unfathomed even a generation ago. During National and Technology Week, the National Science Foundation will again offer its "Ask a Scientist or Engineer" over the Internet. Now in its third consecutive year, online access has been a popular and worthwhile tool, engaging the public's curiosity to explore and question the mysteries of science and technology. Online access will be available throughout the week at asknstw@nsf.gov.

I encourage the House and Senate to strongly support this outreach program, recognizing the importance of involving all people in the awareness that science, engineering, and technology are important in our lives today and crucial to our progress tomorrow. I hope you will join me in celebrating National Science and Technology Week.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I rise in strong support of the reauthorization of the National Science Foundation. In the years since its creation, the NSF has provided funding for research that has led to technological innovations which have improved the lives of millions of people in this country and around the world.

Many of our country's economists agree that technological innovation is responsible for between 30 and 50 percent of the United States' economic growth in the last 100 years. This has meant hundreds of thousands of jobs in every State of the Union.

Without the NSF, there would be no Internet as we know it today. As many of you know, the Defense Department first created the Defense Advanced Research Projects Agency [DARPA]—creating a link of defense computers around the world. In 1981, NSF created the first nondefense computer network, called CSNET, at the request of our country's universities that did not have access to DARPA. In 1987 NSF further expanded into the world with NSFnet.

Ten years later NSFnet has grown into the Internet—the latest frontier in our country's development. The uses for the Internet are still being developed. We already know it is a great research tool for our students, it is fast becoming a great place of economic activity, and the future may hold things we can't even think of.

In Massachusetts and across the country the Internet is also becoming a way to bring people together to support their schools. Twice in the last year volunteers from industry, labor, government, schools and parents, have given up time on their weekends to work on MassNetworks. It is an effort to wire every school in the Commonwealth for computer networks and the Internet. It has been a great success—and I would like to thank all those volunteers.

NSF no longer provides the backbone of the Internet. So, it has now turned its formidable energies to developing the next generation of computer networks and supercomputers.

I am also a strong supporter of the Research Experiences for Undergraduates. This program provides funding for undergraduates to be hired by research professors. I have met students in this program, and all of them sing its praises. There are a number of students at the Massachusetts Institute of Technology, which is in my district, who have benefited from this program.

MIT has furthered this idea with its own called the Undergraduate Research Opportunities Program. This program is very similar except that the researcher does not need to apply for a grant to hire undergraduates—instead they can use their existing research funds for that purpose.

Too often close working relationships with research professors are reserved for graduate students. This program recognizes that most undergraduates don't go to graduate school. This early interaction is vital to these kids' education. Their experiences will turn these kids into the great minds of the next century.

The NSF continues to expand the opportunities of all Americans and I urge my colleagues to support its reauthorization.

Mr. BARCIA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I also have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by titles and each title shall be 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 report section 1.

The Clerk read 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 "National Science Foundation Authorization Act of 1997".

Mr. SENSENBRENNER (during the reading). 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 Wisconsin?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Director" means the Director of the Foundation;

(2) the term "Foundation" means the National Science Foundation;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "national research facility" means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States; and

(5) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the programs of the Foundation are important for the Nation to strengthen basic research and develop human resources in science and engineering, and that those programs should be funded at an adequate level;

(2) the primary mission of the Foundation continues to be the support of basic scientific research and science education and the support of research fundamental to the engineering process and engineering education; and

(3) the Foundation's efforts to contribute to the economic competitiveness of the United States should be in accord with that primary mission.

(b) FISCAL YEAR 1998.—There are authorized to be appropriated to the Foundation $3,505,630,000 for fiscal year 1998, which shall be available for the following categories:

(1) Research and Related Activities, $2,563,330,000, of which—

(A) $330,820,000 shall be for Biological Sciences;

(B) $289,170,000 shall be for Computer and Information Science and Engineering;

(C) $360,470,000 shall be for Engineering;

(D) $452,610,000 shall be for Geosciences;

(E) $715,710,000 shall be for Mathematical and Physical Sciences;

(F) $130,660,000 shall be for Social, Behavioral, and Economic Sciences, including $1,000,000 for the United States-Mexico Foundation for Science;

(G) $165,930,000 shall be for United States Polar Research Programs;

(H) $62,600,000 shall be for United States Antarctic Logistical Support Activities; and

(I) $2,730,000 shall be for the Critical Technologies Institute.

(2) Education and Human Resources Activities, $625,500,000.

(3) Major Research Equipment, $175,000,000.

(4) Salaries and Expenses, $136,950,000, of which $5,200,000 shall be for Headquarters Relocation.

(5) Office of Inspector General, $4,850,000.

(c) FISCAL YEAR 1999.—There are authorized to be appropriated to the Foundation $3,613,630,000 for fiscal year 1999, which shall be available for the following categories:

(1) Research and Related Activities, $2,740,000,000, including $1,000,000 for the United States-Mexico Foundation for Science.

(2) Education and Human Resources Activities, $644,245,000.

(3) Major Research Equipment, $90,000,000, of which no funds are authorized for the Large Hadron Collider project at the European Organization for Nuclear Research (CERN) unless the Director, in consultation with the Secretary of Energy, has transmitted to the Committee on Science of the House of Representatives and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate a report on the impacts of such funding on the operations and viability of United States high energy and nuclear physics facilities.

(4) Salaries and Expenses, $134,385,000.

(5) Office of Inspector General, $5,000,000.

SEC. 102. PROPORTIONAL REDUCTION OF RESEARCH AND RELATED ACTIVITIES AMOUNTS.

If the amount appropriated pursuant to section 101 (b)(1) or (c)(1) is less than the amount authorized under that paragraph, the amount available for each scientific directorate under that paragraph shall be reduced by the same proportion.

SEC. 103. CONSULTATION AND REPRESENTATION EXPENSES.

From appropriations made under authorizations provided in this Act, not more than $10,000 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director. The determination of the Director shall be final and conclusive upon the accounting officers of the Government.

TITLE II—GENERAL PROVISIONS

SEC. 201. NATIONAL RESEARCH FACILITIES.

(a) FACILITIES PLAN.—The Director shall provide to Congress, not later than December 1 of each year, a plan for the proposed construction of, and repair and upgrades to, national research facilities. The plan shall include estimates of the cost for such construction, repairs, and upgrades, and estimates of the cost for the operation and maintenance of existing and proposed new facilities. For proposed new construction and for major upgrades to existing facilities, the plan shall include funding profiles by fiscal year and milestones for major phases of the construction. The plan shall include cost estimates in the categories of construction, repair, and upgrades for the year in which the plan is submitted to Congress and for not fewer than the succeeding 4 years.

(b) STATUS OF FACILITIES UNDER CONSTRUCTION.—The plan required under subsection (a) shall include a status report for each uncompleted construction project included in the current and previous plans. The status report shall include data on cumulative construction costs by project compared with estimated costs, and shall compare the current and original schedules for achievement of milestones for major phases of the construction.

(c) LIMITATION ON OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—No funds appropriated for any project which involves construction of new national research facilities or construction necessary for upgrading the capabilities of existing national research facilities shall be obligated unless the funds are specifically authorized for such purpose by this Act or any other Act which is not an appropriations Act, or unless the total estimated cost to the Foundation of the construction project is less than $50,000,000. This subsection shall not apply to construction projects approved by the National Science Board prior to June 30, 1997.

SEC. 202. ADMINISTRATIVE AMENDMENTS.

(a) NATIONAL SCIENCE FOUNDATION ACT OF 1950 AMENDMENTS.—The National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.) is amended—

(1) in section 4 (42 U.S.C. 1863)—

(A) by striking "the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332" in subsection (g) and inserting in lieu thereof "the maximum rate payable under section 5376"; and

(B) by redesignating the subsection (k) that was added by section 108 of the National Science Foundation Authorization Act of 1988 as subsection (l);

(2) in section 5(e) (42 U.S.C. 1864(e)) by amending paragraph (2) to read as follows:

"(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.";

(3) in section 14(c) (42 U.S.C. 1873(c))—

(A) by inserting "be entitled to" between "shall" and "receive";

(B) by inserting ", including traveltime," after "Foundation";

(C) by striking "the rate specified for the daily rate for GS-18 of the General Schedule under section 5332" and inserting in lieu thereof "the maximum rate payable under section 5376"; and

(D) by adding at the end the following new sentence: "Members of the Board and special commissions may waive compensation and reimbursement for travel expenses."; and

(4) by striking "Atomic Energy Commission" in section 15(a) (42 U.S.C. 1874(a)) and inserting in lieu thereof "Secretary of Energy".

(b) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1976 AMENDMENTS.—Section 6(a) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a(a)) is amended by striking "social," the first place it appears.

(c) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1988 AMENDMENTS.—(1) Section 117(a)(1)(B)(v) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b(1)(B)(v)) is amended to read as follows:

"(v) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of its employees.".

(2) Section 117(a)(3)(A) of such Act (42 U.S.C. 1881b(3)(A)) is amended by striking "Science and Engineering Education" and inserting in lieu thereof "Education and Human Resources".

(d) SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.—The Science and Engineering Equal Opportunities Act is amended—

(1) in section 34 (42 U.S.C. 1885b)—

(A) by amending the section heading to read as follows: "PARTICIPATION IN SCIENCE AND ENGINEERING OF MINORITIES AND PERSONS WITH DISABILITIES"; and

(B) by amending subsection (b) to read as follows:

"(b) The Foundation is authorized to undertake or support programs and activities to encourage the participation of persons with disabilities in the science and engineering professions."; and

(2) in section 36 (42 U.S.C. 1885c)—

(A) by striking "minorities," and all that follows through "in scientific" in subsection (a) and inserting in lieu thereof "minorities, and persons with disabilities in scientific";

(B) in subsection (b)—

(i) by striking "with the concurrence of the National Science Board"; and

(ii) by amending the second sentence thereof to read as follows: "In addition, the Chairman of the National Science Board may designate a member of the Board as a member of the Committee.";

(C) by striking subsections (c) and (d);

(D) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively;

(E) by inserting after subsection (b) the following new subsection:

"(c) The Committee shall be responsible for reviewing and evaluating all Foundation matters relating to participation in, opportunities

for, and advancement in education, training, and research in science and engineering of women, minorities, and persons with disabilities."; and

(F) in subsection (d), as so redesignated by subparagraph (D) of this paragraph, by striking "additional".

(e) TECHNICAL AMENDMENT.—The second subsection (g) of section 3 of the National Science Foundation Act of 1950 is repealed.

SEC. 203. INDIRECT COSTS.

(a) MATCHING FUNDS.—Matching funds required pursuant to section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) shall not be considered facilities costs for purposes of determining indirect cost rates.

(b) REPORT.—The Director of the Office of Science and Technology Policy, in consultation with other relevant agencies, shall prepare a report analyzing what steps would be needed to—

(1) reduce by 10 percent the proportion of Federal assistance to institutions of higher education that are allocated for indirect costs; and

(2) reduce the variance among indirect cost rates of different institutions of higher education, including an evaluation of the relative benefits and burdens of each option on institutions of higher education. Such report shall be transmitted to the Congress no later than December 31, 1997.

SEC. 204. FINANCIAL DISCLOSURE.

Persons temporarily employed by or at the Foundation shall be subject to the same financial disclosure requirements and related sanctions under the Ethics in Government Act of 1978 as are permanent employees of the Foundation in equivalent positions.

SEC. 205. EDUCATIONAL LEAVE OF ABSENCE FOR ACTIVE DUTY.

In order to be eligible to receive funds from the Foundation after September 30, 1997, an institution of higher education must provide that whenever any student of the institution who is a member of the National Guard, or other reserve component of the Armed Forces of the United States, is called or ordered to active duty, other than active duty for training, the institution shall grant the member a military leave of absence from their education. Persons on military leave of absence from their institution shall be entitled, upon release from military duty, to be restored to the educational status they had attained prior to their being ordered to military duty without loss of academic credits earned, scholarships or grants awarded, or tuition and other fees paid prior to the commencement of the military duty. It shall be the duty of the institution to refund tuition or fees paid or to credit the tuition and fees to the next semester or term after the termination of the educational military leave of absence at the option of the student.

SEC. 206. SCIENCE AND TECHNOLOGY POLICY INSTITUTE.

(a) AMENDMENT.—Section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686) is amended—

(1) by striking "Critical Technologies Institute" in the section heading and in subsection (a), and inserting in lieu thereof "Science and Technology Policy Institute";

(2) in subsection (b) by striking "As determined by the chairman of the committee referred to in subsection (c), the" and inserting in lieu thereof "The";

(3) by striking subsection (c), and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively;

(4) in subsection (c), as so redesignated by paragraph (3) of this subsection—

(A) by inserting "science and" after "developments and trends in" in paragraph (1);

(B) by striking "with particular emphasis" in paragraph (1) and all that follows through the end of such paragraph and inserting in lieu thereof "and developing and maintaining relevant informational and analytical tools.";

(C) by striking "to determine" and all that follows through "technology policies" in paragraph (2) and inserting in lieu thereof "with particular attention to the scope and content of the Federal science and technology research and develop portfolio as it affects interagency and national issues";

(D) by amending paragraph (3) to read as follows:

"(3) Initiation of studies and analysis of alternatives available for ensuring the long-term strength of the United States in the development and application of science and technology, including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of science and technology.";

(E) by inserting "science and" after "Executive branch on" in paragraph (4)(A); and

(F) by amending paragraph (4)(B) to read as follows:

"(B) to the interagency committees and panels of the Federal Government concerned with science and technology.";

(5) in subsection (d), as so redesignated by paragraph (3) of this subsection, by striking "subsection (d)" and inserting in lieu thereof "subsection (c)"; and

(6) by amending subsection (f), as so redesignated by paragraph (3) of this subsection, to read as follows:

"(f) SPONSORSHIP.—The Director of the Office of Science and Technology Policy shall be the sponsor of the Institute.".

(b) CONFORMING USAGE.—All references in Federal law or regulations to the Critical Technologies Institute shall be considered to be references to the Science and Technology Policy Institute.

SEC. 207. NEXT GENERATION INTERNET.

None of the funds authorized by this Act, or any other Act enacted before the date of the enactment of this Act, may be used for the Next Generation Internet. Notwithstanding the previous sentence, funds may be used for the continuation of programs and activities that were funded and carried out during fiscal year 1997.

SEC. 208. LIMITATIONS.

(a) PROHIBITION OF LOBBYING ACTIVITIES.—None of the funds authorized by this Act shall be available for any activity whose purpose is to influence legislation pending before the Congress, except that this subsection shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

(b) LIMITATION ON APPROPRIATIONS.—No sums are authorized to be appropriated to the Director for fiscal years 1998 and 1999 for the activities for which sums are authorized by this Act, unless such sums are specifically authorized to be appropriated by this Act.

(c) ELIGIBILITY FOR AWARDS.—

(1) IN GENERAL.—The Director shall exclude from consideration for grant agreements made by the Foundation after fiscal year 1997 any person who received funds, other than those described in paragraph (2), appropriated for a fiscal year after fiscal year 1997, under a grant agreement from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this subsection shall be effective for a period of 5 years after the person receives such Federal funds.

(2) EXCEPTION.—Paragraph (1) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

(3) DEFINITION.—For purposes of this subsection, the term "grant agreement" means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

SEC. 209. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Science of the House of Representatives and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate.

(b) NOTICE OF REORGANIZATION.—The Director shall provide notice to the Committees on Science and Appropriations of the House of Representatives, and the Committees on Labor and Human Resources, Commerce, Science, and Transportation, and Appropriations of the Senate, not later than 15 days before any major reorganization of any program, project, or activity of the Foundation.

SEC. 210. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the Foundation should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Foundation posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Foundation is unable to correct in time.

SEC. 211. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

The National Science Foundation is authorized to participate in the National Oceanic Partnership Program established by the National Oceanic Partnership Act (Public Law 104–201).

SEC. 212. BUY AMERICAN.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(c) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Director shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

The CHAIRMAN. Are there any amendments?

AMENDMENT NO. 1 OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. COBURN:

Page 6, after line 11, insert the following new section:

SEC. 104. UNITED STATES MAN AND THE BIOSPHERE PROGRAM LIMITATION.

No funds appropriated pursuant to this Act shall be used for the United States Man and Biosphere Program, or related projects.

Mr. COBURN. Mr. Chairman, this amendment is very simple. What it does is limit the amount of money that the NSF can spend for the United States Man and Biosphere Program and related projects.

It is important that the people recognize that the Biosphere Reserve and World Heritage sites are under the guidance of the United Nations Educational, Scientific and Cultural Organization also known as UNESCO. The United States withdrew from that Organization in 1984 because of gross financial mismanagement.

Over 68 percent of our national parks, preserves, and monuments have been designated as United Nations World Heritage sites, Biosphere Reserve or both. There are currently 47 of those sites in the United States, covering an area the size of Colorado. Under the relative agreements, the United States is promising to manage lands in accordance with international guidelines. Many times local government, private properties are never consulted in these management plans. This is a clear violation of private property rights. The biosphere programs, including the United States Man and Biosphere Program, have never been authorized by any Congress, never been authorized, but still received this past year and this year will receive over $700,000 of taxpayers' money.

The National Science Foundation distributed more than $400,000 in grants to this unauthorized program despite the fact that the program has never had a consideration or vote in Congress and has never been approved by a body of the Congress.

Mr. Chairman, I think it is important for us to recognize that if we are going to balance our budget, the one thing that has to happen is that the Congress has to decide whether or not we are going to authorize programs. If we are going to authorize programs, then we ought to fund them. But if we are not going to authorize programs, we should not let other agencies do our job instead.

The fact is, is there are over 15 different Government agencies that are contributing moneys for other purposes to the biosphere program. It is my feeling and many others that this should not happen, that it gives away a responsibility of Congress, that in fact being unauthorized, and also invades the personal property rights of those people who own land around these parks and reserves.

The Committee on Science, it also should be noted that we did vote to take out money out of NASA that was used for this very purpose on a voice vote in the Committee on Science markup. All we are doing is extending the same guidance to the National Science Foundation as was given to NASA.

It would be my request that this body consider this amendment in the spirit in which it is given: No. 1, in terms of fiscal responsibility we should not be giving moneys to unauthorized programs; No. 2, especially programs that violate the very spirit of freedom and control of personal property rights that our citizens enjoy.

I would ask concurrence from other Members in this body on this.

Mr. BARCIA. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Oklahoma.

I would just like to make a few brief points. I would like to point out that the NSF's contribution to the Man and Biosphere Program is $50,000 a year, provided through an interagency transfer to the State Department. NSF funds pooled with other agency funds are used to support five to six projects at about $200,000 each. Research grants are peer reviewed and then approved by the executive committee of the Man and Biosphere Program comprised of about 15 agency officials, including a person from the NSF.

I would like to also point out that all NSF moneys are used only for research purposes, not to acquire additional land. The issue of the United Nations perhaps having influence or control or authority over U.S. lands, private and public, is completely false. Neither the United Nations nor any other international body has any authority over any public or private U.S. lands which have received recognition as a biosphere reserve. Only voluntary guidelines exist for biosphere reserves. No international biosphere reserve treaty or biosphere reserve convention exists.

In 1995, many managers from biosphere reserves around the world, representatives of conservation groups and scholars met in Seville, Spain, to set some voluntary framework for international science and conservation cooperation. Among those documents were the Seville Strategy for Biosphere Reserves and the statutory framework for the World Network for Biosphere Reserves. No statutory law or treaty exists, nor is any being contemplated or proposed for this network.

□ 1200

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment that has been offered by the gentleman from Oklahoma [Mr. COBURN]. I think there are two reasons why we should do this.

First, the NSF contributes $50,000 for this program. It is a controversial program, it is a program that has been set up by the United Nations, and as the gentleman from Oklahoma has stated, it has never been voted on by the Congress. The question is whether or not we can spend $50,000 on better research than this. I think we can. There is the secretariat in the State Department that is supposed to coordinate all of this money. It seems to me that there are a lot of people on the payroll, there is an awful lot of traveling around. That is not research in my mind. What is research is the type of stuff that the NSF can do inhouse with peer review grants to our universities, to our high schools, to our research institutions in the United States of America.

So it is a question of whether we want to spend the money on Man and the Biosphere or whether we want to spend the money on the other very worthwhile NSF research projects. I vote for spending the money on the other worthwhile NSF research projects.

Second, the gentleman from Oklahoma raises a very good point. The committee did offer, or did adopt, an amendment that he offered to the NASA bill that prohibits NASA funds from being contributed into this pot. The same arguments that I gave against using NSF funds for this pot are valid for NASA funds. I think it was probably an oversight that he was not able to offer the similar amendment to the NSF bill. This simply corrects the oversight, makes the Congress consistent in both NSF and NASA, and I would urge support of the gentleman from Oklahoma's amendment.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had hoped that we would not get involved in a lengthy debate over this amendment, and I would only like to make a few brief statements to amplify on some of the things that the gentleman from Michigan [Mr. BARCIA] has already said. I really would like to urge the author of this amendment to spend a little more time in becoming acquainted with the research purposes of this program. I think that as a professional who understand the importance of research, he would be able to understand the significance of this international network of preserves which maintain in a condition that can be used for study and research areas around the globe which have a unique ecosystem niche or which protect a unique ecosystem niche of one sort or another. This means that in these protected areas over periods of time we can observe the impact of what human beings are doing on a global basis to specific kinds of

areas, particular specific environments, which may have great value to us over the years.

That is the reason that we have this voluntary program and whose only purpose really is to establish a basis for scientific research to study impacts over time of what is happening. Now I honestly believe that the gentleman, if he would observe the program in more detail, would be impressed by the long-term value which this program contributes.

Now I understand that it has become controversial. I regret that that has been the case. But the controversy is not in my opinion over the merits of the program. The controversy is over the fact that some people, and I mean no disrespect to these people, feel that this is a conspiracy or a plot by the United Nations to take over the United States or something of that sort. Now, if one believes in this fantasy, then one of course wants to strike out at anything involving the U.N., and this is one of those programs which is a U.N.-sponsored program which they might want to do.

But as has already been mentioned, there is nothing here which provides the U.N. any authority whatsoever over any territory of the United States. These biosphere reserves are offered voluntarily as study sites within the framework of this U.N. program. They can withdraw at any time, any time. There is no loss of local, State or Federal control over these biospheres, no part of the law is changed in any way, shape or form. The amount of money involved is minuscule. The $50,000, for example, that may be spent by the National Science Foundation is so ridiculously small that it would be normally unobservable. The money spent, adding up as I understand it to less than a million dollars by other agencies, is research money either for the agency or by a university research group or some other group that wants to use these reserves to establish certain environmental research findings that would be useful to everybody in the world over a period of time.

So I very strongly urge that this amendment be defeated, and I even more strongly urge that the individual who authored it, the gentleman for whom I have great respect, would take the time to understand the full implications of this program and the value that it contributes on a global basis to research that will benefit all of us in this country.

Mr. Chairman, I rise in opposition to this amendment which would gut one of our most successful international environmental programs. I would like to briefly describe what the Man and the Biosphere Program does and what it does not do.

The Man and the Biosphere Program is a coordinated research mainly carried out by university research grants. The objective is to study representative ecological systems and compare regional results with studies elsewhere both in the United States and worldwide. In order to carry out the program, study areas called biosphere reserves have been designated within the United States and in other participating countries that reflect the unique ecological systems that need to be examined.

As is described by the Congressional Research Service, "Biosphere Reserve recognition does not convey any control or jurisdiction over such sites to the United Nations or to any other entity. The United States and/or State and local communities where biosphere reserves are located continue to exercise the same jurisdiction as that in place before the designation." Thus there is no question that this is not a property rights issue, nor an international plot to take over U.S. lands.

Yet, sadly, there remains a uniformed opinion among some that has transformed itself into an irrational fear over the loss of U.S. sovereignty. There has been a great many inaccurate and groundless anecdotes about this program that I am certain could be corrected given enough time today.

This would not be a very wise use of our time however. I will just make a few general comments about this issue.

The idea that the United Nations is taking over U.S. lands, public and private, is completely false. No international treaty or convention exists that even remotely affects U.S. sovereignty.

The designation of a biosphere reserve does not have any effect on the status, use, or value of non-Federal lands. There is absolutely no evidence that any restrictions have been placed on any private lands in the vicinity of a biosphere reserve because it was a reserve. For an area to be nominated as a reserve, such an area must already have legal protection as a protected area, area of managed use, wilderness area, or research natural area. There have been no new restrictions placed on such lands.

Biosphere reserves will not circumvent the Constitution or infringe on the laws enacted by Congress. The Federal or State agencies responsible for biosphere protected areas are all the agencies we have jurisdiction over, there is no new authority conveyed by the Man and the Biosphere Program.

Finally, Mr. Chairman, opponents of the Man and the Biosphere Program have asserted that U.N. troops have had a firsthand role in establishing control over these biosphere reserves, U.N. roadblocks have been set up, that some secret international conspiracy called Agenda 21 exists for seizing control, and so on. These charges would be laughable if it were not for the tragic consequences that this type of paranoia has bred over the past year.

I hope that we take a rational and moderate view toward this issue today and defeat this amendment. The opponents of the Man and the Biosphere Program simply have not met the burden of proof that it is part of a conspiracy or that it in any way has affected property rights. I urge my colleagues to vote no on the amendment.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I would just say to the gentleman I have read everything available to use on this program. The people I represent wholeheartedly disagree with this program. Even though it does have benefits they still disagree, and that even though a ridiculously small amount like $700,000 in terms of what we spend does seem small, but when the average family income in the district is $13,000, that is a tremendous amount of money, and when we are trying to balance a budget and not take money from our grandchildren, $700,000 on an unauthorized project is a tremendous amount of money.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to put my strength or my convictions or my words behind my colleague from Oklahoma who is watching out for the taxpayers' interests. As my colleagues know, sometimes we get so involved with the big picture that we miss some of the details, and when talking about the details in Washington, DC, we are talking about hundreds of thousands and millions of dollars that slip right on by and end up being spent on what most Americans would think are looney programs. And I have to say that I honestly believe that this biosphere program is one of those looney programs for which we could have better spending in other NSF research programs, and it would be much better to have this money that is being spent for what I consider also to be.

As my colleagues know, one of the things when I came up here, and I will just be very honest about it, is, yes, we have a situation where all political people, we are all elected, and sometimes people are attracted to projects that have a lot of publicity and are trendy projects, and I hate to say this, but it appears to be from what I read about the biosphere program that it is a trendy project, but it does not make any sense to me what I read about it, and I think that there are other ways that we could spend taxpayers' dollars that would be much more beneficial, like making sure no money is spent on this sort of looney program. We are ensuring that those dollars will be spent on something a little bit more substantive.

Mr. Chairman, I yield the balance of my time to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, I thank the gentleman for yielding. I just thought I would give us a rundown of where the $700,000 came from last year so we can all know where it came from since none of this was authorized and it came from several different agencies.

The Air Force gave $50,000. That is really defense of our country. The Bureau of Land Management gave $20,000; the EPA gave $18,000; the Forest Service gave $75,000; the National Biologic

Service gave $30,000; the National Park Service, $60,000; NASA, $50,000; NOAA, $50,000; the National Science Foundation, $50,000; the Peace Corps gave $11,000 of their budget to the Project Man and Biosphere. The State Department gave $240,000 of their money to the biosphere program last year. The State Department; I am having trouble connecting what that has to do with the State Department in terms of protecting that. USAID, which is not quite biosphere, it gave $60,000. We spent $7,000 in Denmark out of this money, we spent $11,000 on the European market, we spent $11,000 in the Mexican biosphere project, and we spent $23,000 in the Russian biodiversity information project.

So I guess the question comes is if this is a legitimate project, let us bring it through the Congress, let us bring it through the Committee on Science, let us authorize it and then put the money there. Let us not let bureaucrats decide how we are going to fund something that we may think is right, and all we are asking with this amendment is that we not fund money for an unauthorized project, and if it has merits, let it stand on its own merit and go through the process that any other thing in this Congress is supposed to do. That means come through the committee process, be authorized and be voted on by both Houses of Congress, and get the money.

Mr. ROHRABACHER. Mr. Chairman, I would compliment my colleague from Oklahoma [Mr. COBURN]. While a short time here, he has become a champion of the taxpayers and watching for these little things that might sneak by the rest of us, and we really appreciate his diligence on this issue and other issues, I might add as well.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the Coburn amendment would prohibit the National Science Foundation from distributing grants from the U.S. Man and Biosphere Program which is the mechanism the United Nations uses to study and designate biosphere reserves in the United States.

Mr. Chairman, few Americans really realize that over the last 25 years increasingly large amounts of Federal land have been designated for international land use programs such as the biosphere reserves. I would like to lay out some facts about this program.

Here in the United States a total of 47 sites in the United States have been designated already as U.N. biosphere reserves with virtually no congressional oversight and no congressional hearings. The Biosphere Reserve Program is under the jurisdiction of the U.N. Educational, Scientific, and Cultural Organization, commonly referred to as Unesco. Now it is very, very important to note that the United States actually pulled out of Unesco in the mid-1980's because of gross financial mismanagement, at the urging of our President, Ronald Reagan.

Mr. Chairman, in addition, there is no formal international agreement concerning biosphere reserves, and I think that is very important to note when we are trying to appropriate several hundred thousand dollars. The U.S. program operates without legislative direction and is not authorized by Congress. The U.S. biosphere reserves now proximate an area the size of the State of Colorado, the eighth largest State in the Nation. A biosphere reserve is a federally zoned and coordinated region consisting of three areas or zones that meet certain minimum requirements established by the United Nations. The inner or most protected area, the core zone, is usually Federal lands, but the outer two zones contain non-Federal property, and that means an encroachment, an imposition, of rules and regulations again into private property. By allowing these international land use designations, the United States promises to protect designated areas and regulate surrounding lands if necessary to protect the designated areas. Honoring these agreements forces the Federal Government to prohibit or limit some uses of private lands outside the internationally designated area unless our country wants to break a pledge to other nations. The Federal regulatory actions that result have a potential of causing a significant adverse impact on the value of private property and on the local and regional economy surrounding these areas. Also disturbing is that the designation of biosphere reserves rarely involves consulting the public and the local government. In fact, Unesco policy apparently discourages an open nomination process for the designation of these lands for biosphere reserves.

□ 1215

In their operational guidelines, in UNESCO's own operational guidelines for the implementation of the World Heritage Convention, it states, and I quote, "in all cases, as to maintain the objectivity of the evaluation process and to avoid possible embarrassment to those concerned. The State national party," they refer to the United States as the State, "the State party should refrain from giving undue publicity to the fact that a property has been nominated inscription pending the final decision of the committee of the nomination in question."

Now, participation of the local people in the nomination process is essential to make them feel a shared responsibility with the State party in the maintenance of the site but should not prejudice further decisionmaking by the committee.

Mr. Chairman, I think that says it all. Last year, when the Committee on Resources held a hearing on this issue, our suspicions about the lack of local involvement were confirmed. We heard testimony from local officials all around the country who felt that their role in the land management process had been significantly diminished by these designations. Many of these people did not even know that their property and surrounding lands were even being considered for designation until final decisions were made.

Mr. Chairman, it is clear to me that biosphere reserve designations give the international community an open invitation to interfere in domestic land use decisions. More seriously, the underlying international land use agreements potentially have several significant adverse effects on the American system of government. The policymaking authority is further centralized at the Federal executive branch level, and the role that the ordinary citizen has in the making of this policy through their elected representatives is totally diminished. The executive branch may also invoke these agreements in an attempt to administratively achieve an action within the jurisdiction of the Congress but without consulting Congress.

Mr. Chairman, I urge strong support for this amendment.

Mr. Chairman, in looking at these facts, it is particularly distressing that the National Science Foundation has contributed more than $40,000 tax dollars to this unauthorized and sovereignty threatening program.

With that in mind, I strongly urge my colleagues to vote in support of this amendment, which will not only stop the expenditure of unauthorized Federal funds, but will also help keep the sovereignty of our lands where it belongs; in the people's house.

Mr. CAPPS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think there is paranoia going on here having to do with a fear about Unesco, the United Nations and various things; and I think it is completely overblown. The research has already been authorized, that is point No. 1, and the research that has been authorized does not infringe upon property rights. I think that this ought to be emphasized.

The biosphere reserve designation does not convey any control or jurisdiction over such sites of the United Nations or to any other entity. The United States and/or State and local communities where biosphere reserves are located continue to exercise the same jurisdiction as that in place before the designation, and areas are listed only at the request of the country in which they are located. These areas can be removed from the biosphere reserve list at any time by a request from that country.

Mr. Chairman, I am reading from a CRS report for Congress. I want to add

to that that CRS is not known to lie to Congress. I am opposed to the amendment and urge my colleagues to vote against it.

Mr. SALMON. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, I would just like to make one point. I believe it was a mistake in language, but I would like to ask the gentleman a question. This program has never been authorized by any Congress of the United States; is that the gentleman's understanding?

Mr. CAPPS. Mr. Chairman, if the gentleman would yield, it was before I got here, but I understand that we authorized the research. We did not designate whether the research would take place.

Mr. COBURN. Mr. Chairman, I would ask the gentleman from California [Mr. BROWN] to please clarify that for me.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. SALMON. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, we do have reference to the concept of the biosphere reserves. That is a U.N. designation. We do not authorize that. All of the research done within those biospheres is conducted with Federal money. That research is authorized, however.

Mr. COBURN. Mr. Chairman, I thank the gentleman. That is exactly my point. We have never as a body in this Congress authorized the U.S. Man and Biosphere project. We have, in fact, authorized moneys that then have been spent on it for an unauthorized program. That is exactly why we should support this amendment and not allow agencies to spend money on unauthorized projects.

Again, I would reemphasize, if this program has good merits, it should come before the appropriate committees of Congress, receive its authorization and receive its funding. To fund it any other way is, first of all, inappropriate and is deceitful. Yes, there is in the far Western States certain paranoia about this, but why should there not be if we are funding it and not bringing it for authorization?

So I would say we understand that it does not have anything to do with about whether we are environmentally friendly or not. The fact is that, if it is a legitimate program, then let us bring it before the committees, let us authorize it and then let us fund it.

Mr. BROWN of California. Mr. Chairman, if the gentleman would continue to yield, I want to indicate that there are some things that we should agree on. If the gentleman is willing to admit that there is a little paranoia out there, and I have some of it in my district, I can assure him, I would be willing to admit that we should authorize specifically our participation, even though it is a voluntary participation, in the U.N. Biosphere Program. There is no reason why we should not put that into suitable legislation, and I will commit myself to making an effort to do that as soon as possible.

Mr. COBURN. Mr. Chairman, I thank the gentleman.

Mrs. EMERSON. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Oklahoma [Mr. COBURN] to prohibit National Science Foundation funds to be used for purposes relating to the U.S. Man and Biosphere Program. On behalf of many of my constituents in southern Missouri, I commend Mr. COBURN's efforts to prevent future funding for this program.

Mr. Chairman, large portions of my district in southern Missouri have been designated by the Man and Biosphere Program as a proposed site. Fortunately, after a groundswell of opposition and strong grassroots on the part of property owners throughout our region, the proposed Ozark Highlands Man and Biosphere has been dropped. However, that is not to say that future proposals will not emerge that could again potentially pose problems for private land owners throughout my congressional district and the Nation.

It is important to understand that Congress has no direct oversight, input, or direction over this program. It has never been authorized by Congress and therefore should not be funded. Just as important, the public and local governments are rarely consulted. This is wrong and should not be funded with taxpayers' dollars.

The U.S. Man and Biosphere Program goes to the heart of a larger problem in this country—that is land management restrictions for both our Nation's public and private lands. In fact, many folks would be surprised to know that within the last 25 years, more and more of our Nation's land has become subject to international land-use restrictions. Right now, a total of 67 sites in the United States have been designated as United Nations Biosphere Reserves or World Heritage sites. While there is no current U.N. involvement in our domestic land management decisions, we should not be establishing additional forums that could eventually lead to international input in our own domestic decisions regarding this country's public and private lands.

I want to, again, reiterate my strong support of the amendment by Mr. COBURN to prohibit funding for this unauthorized program and appreciate his efforts on behalf of private property owners throughout this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. COBURN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas: Page 20, insert after line 18 the following:

SEC. 213. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

It is the sense of the Congress that the Director shall, to the greatest extent practicable and using existing authority, donate surplus computers and other research equipment to elementary and secondary education schools to enhance their science and mathematics programs. The Director shall report annually to the appropriate Committees of Congress on the Director's activity under this section.

The CHAIRMAN pro tempore (Mr. DIAZ-BALART). The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as a relatively new Member of this body, I have been very proud of the work of the House Committee on Science, both under the leadership of the gentleman from California [Mr. BROWN], my ranking member, and the chairmanship of the majority.

One of the issues that we have raised as we confront this whole story of the 21st century is, will we be prepared and will our children be prepared? With that in mind, I am very concerned that our schools in the Nation continue to encourage our young people to be involved expertly, if you will, in science and mathematics programs. There is not one of us who has not talked to a 5th grader, a 6th grader, a 9th grader, and then maybe an 11th grader or 12th grader, and we see the progress of change on the issues of science and math; the sparkling eyes of the 3rd grader and 4th grader and 5th grader and then the waning interest of maybe those in middle school and high school. It is extremely important, I believe, that we in the Government lend ourselves to encouraging the study of math and science.

This amendment responds to that interest. In 1997, the number of children in the United States that enrolled in public schools between K through eighth grades are 33,226,000. The number of children enrolled in public schools between grades 9 and 12 are 13,299,000. The number of children enrolled in private schools between K to 8th grades are 4,547,000, and the number of children between grades 9 and 12 are 1,329,000, for a total of 51 million children. We have the responsibility to educate our children.

Science has value and importance because of the beneficial applications of scientific finds in the overall economy. It was of great excitement for me to join one of my elementary schools where a teacher single-handedly opened up a science a lab with all kinds of trinkets, if you will, that she had gathered from the parents of children, parents who are involved in the science arena who brought different items to her attention and she created a touch-and-see laboratory. Because of that, that will instill in those children the opportunity and the desire to be proficient in science and in math, helping

us explore our world and space in the 21st century.

Further, the benefits have tangible results and a better educated citizenry graduating from our Nation's schools, universities and graduate schools. Because of the work done by the National Science Foundation, America will be better able to compete in the global economy of tomorrow.

This amendment complements the National Science Foundation by allowing them to donate surplus computers and other research equipment to elementary and secondary educational schools to enhance their science and mathematics programs. What better source of this kind of equipment than the cutting-edge agency that deals with science research on a continuous basis? If we are to prepare our children for the demands of science and mathematics in the future, they should be allowed to receive the benefits of federally funded programs which are revenue-neutral by using surplus equipment that may be of benefit to strengthening science and mathematics programs.

This amendment would direct the National Science Foundation to look at its equipment and be able to ensure that our schools, rural and urban throughout the Nation, have access to this very valuable and current scientific equipment. Math and science are key, Mr. Chairman, and I believe anywhere and anyhow this Congress can help our children be excited about math and science and being prepared for the 21st century, we should engage in whatever way possible.

Therefore, I ask my colleagues to support me in this amendment. Most of all, I ask them to support our children by allowing them and giving them encouragement to participate in science and mathematics throughout this Nation.

Mr. EHLERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am pleased to say of the amendment which has been offered by the gentlewoman from Texas [Ms. JACKSON-LEE] that the majority is willing to accept the amendment. It is clear that we need in our elementary and secondary educational schools greater computing ability as well as a better means of instructing students in the use of computers, and to the extent that we can assist in the Federal Government with surplus computers and other research equipment, it is a great step forward.

My only comment is that this action should also extend to higher education because they can also make particularly good use of surplus research equipment and, to a certain extent, computers.

My hope is that we will donate good equipment and not junk equipment. And I think the schools may have to be a bit discriminating as to what they accept, because they may accept greater maintenance liabilities than they think if they are not careful. But there is certainly a noble intent behind the amendment. I am pleased on behalf of the majority to say that we appreciate it and are willing to accept it.

□ 1230

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. EHLERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as one of the individuals on the committee, being a scientist that I admire along with the other scientists that are there, let me thank the gentleman for that.

Let me say that I look forward to having the opportunity in the future to work on institutions of higher learning. One of the aspects of this amendment is that we ask the agency to report back to the committee. In that, I hope that we can be assured that no junk has been given, and work with the agency to ensure that that would not happen.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this not to belabor the amendment, which obviously on both sides we agree to. I would like to just indicate how important I think it is. It moves us a long way forward in making sure that all of our schools do have access to the kind of equipment that will help them to cross this bridge into the 21st century.

Mr. Chairman, I specifically want to pay tribute to the gentlewoman from Texas, who, despite the fact that she is not a scientist, is taking the leadership role in this whole area of adequate communication, networks, advanced computing equipment, and other things that are so important to education in today's world.

It is remarkable that someone who does not claim to be a scientist and have a background in the information revolution should be as assiduous as she has been in making sure that at every opportunity we make some contribution to enhancing our progress in this vital area. I want to commend the gentlewoman for that.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PETRI) having assumed the chair, Mr. DIAZ-BALART, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1273) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes, pursuant to House Resolution 126, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EHLERS. 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 bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CIVILIAN SPACE AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999

The SPEAKER pro tempore. Pursuant to House Resolution 128 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. 1275.

□ 1234

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. 1275) to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, and for other purposes, with Mr. DIAZ-BALART 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 Michigan [Mr. EHLERS] and the gentleman from Alabama [Mr. CRAMER] each will control 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Chairman, I reserve my time and defer to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of H.R. 1275, the Civilian Space Authorization Act for fiscal years 1998 and 1999. I believe this is a good bill and that it is the result of a bipartisan effort by members of the Committee on Science.

I want to congratulate the chairman of the committee, the gentleman from Wisconsin [Mr. SENSENBRENNER], the chairman of the subcommittee, the gentleman from California [Mr. ROHRABACHER], as well as the ranking member, the gentleman from California [Mr. GEORGE BROWN] for their work in crafting this important piece of legislation.

This provides for a balanced NASA program, fully funding its critical missions, and I am pleased that the bill maintains the Congress' commitment to the Space Shuttle and Space Station Programs. These programs are critical to our Nation's future in space and are the heart of the human space flight endeavor.

I am sure we will hear a little more about the Space Station Program when we likely debate what I believe is an ill-considered amendment to cancel the station program. I believe the gentleman from Indiana [Mr. ROEMER] will consider offering that amendment again here.

I want to focus on many more of the positive provisions of H.R. 1275. This bill ensures that the taxpayers' investment in the space station is protected. We have erected a firewall between the funding for the space station science payloads and the funding for the space station's hardware development. We need to make sure that the station program that we are building is a productive world-class research laboratory, and I believe this bill goes a long way toward ensuring that that goal is attained.

We heard through the committee hearing process from many different points of view. We heard loudly from the medical research community that they need the Space Station Program in order to continue to build on the highly effective life and microgravity science research that we are already conducting on the space shuttle program.

We heard from many witnesses about advances that are being made with infectious disease, combatting that, advances that are being made in treating particular kinds of cancers, diabetes, other issues as well, that cannot go much further here on Earth, they need the Space Station Program in order to get there.

This research has real potential for commercial development, and I hope those new Members of Congress that may be somewhat reserved about our investment in the Space Station Program will listen during this debate to the advances that we have made over those issues.

H.R. 1275 provides funding in fiscal year 1998 to allow NASA to continue flight research activities on the shuttle until the Space Station Program becomes operational. H.R. 1275 also contains a number of tough provisions regarding the Russian participation in the Space Station Program. Cooperation with Russia in space offers many benefits to America, but that cooperation has to be based on each party living up to its commitments. The Space Station Program that is funded through the authorization of this bill sends a strong signal to Russia that we expect them to deliver on their promises.

Turning to space science, I think we do an outstanding job in this piece of legislation to fully fund the President's request for space science. For example, the bill funds the continued operation of the Hubbell space telescope, which is making exciting scientific discoveries that are rewriting science textbooks.

In all, H.R. 1275 is a strong bill, and I urge my colleagues to consider this bill. I have more to say, but I want to make sure that I give the chairman of the committee the opportunity to discuss this.

Mr. Chairman, I reserve the balance of my time.

Mr. EHLERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I rise today to support H.R. 1275, the Civilian Space Authorization Act, which the Committee on Science recommends to the House by a wide bipartisan margin.

In fiscal year 1998, this bill provides a modest 1-percent increase for NASA over its fiscal 1997 appropriated level. For fiscal year 1999 we provide a 1½-percent increase over the 1997 level.

As most of the Members will recognize, these increases do not keep pace with inflation, so NASA's real budget continues to fall. Nevertheless, H.R. 1275 provides NASA with the stability it requires to achieve our national space goals during this period of declining budgets.

The bill fully funds NASA's programs and scientific research and includes modest increases in space science data analysis to correct NASA's failures to adequately fund its science investigations.

The bill also contains funding to take our reusable launch vehicle programs to the next level, a generation beyond the X–33 program. X–33 remains our first priority, but this new investment in another X plane concept ensures that the Nation has options for the future of its space transportation capabilities.

I would like to turn now to the bill's international space station provisions. As my colleagues are aware, the Clinton administration invited Russia to join the international space station in 1993.

At the time Congress was skeptical that Russia would make a good partner based upon the instability associated with its transition from communism to democracy and capitalism. But the administration made a lot of promises, arguing that the Russians would never let their space program fall into disrepair, and that we would not be dependent upon the Russians for the success of the international space station.

As most of us know, those promises have been broken. This does not mean that we should walk away from the space station. Its potential to radically improve our knowledge of human physiology, plant and animal biology, microgravity, and material science has been demonstrated time and time again on the space shuttle and in testimony before the Committee on Science. Congress has been right and proper in continuing its support for the international space station, and I hope it continues to do so today.

We have been consistent and passed funding for the space station in the last Congress by 140 vote margins. Our mistake, which we were obligated to make, was to place any faith in the administration's promises. H.R. 1275 fixes that problem.

In committee, the gentleman from California [Mr. BROWN] and I offered an amendment that imposes a decision process on the administration relative to the Russian problem and the space station. That amendment was adopted by a unanimous division vote of 25 to nothing.

Briefly, we prohibit paying Russia for its commitments to the international space station. They have to pay for that themselves. United States taxpayers' money will not be used to pay for what the Russians promised to build.

Second, we put an end to the administration's practice of dissembling, denying, and ducking problems by forcing NASA to develop a contingency plan and time line for deciding whether or not to remove each Russian piece of hardware in the critical path.

Third, we require NASA to certify each month that the Russians are, or are not, living up to their obligations, so the administration cannot spring surprises on us and pretend it did not know what was going on.

Fourth, we require the President to certify by August 1 that he will or will not baseline the Russian elements in the Space Station's design.

Finally, long-term stays by our astronauts on the Russian Mir space station require an independent review of the Mir to determine whether it meets or exceeds U.S. safety standards. We

cannot risk our astronauts on Mir just to save Russia's dignity or to allow the administration to remain in denial.

I would point out that there is currently a leak of antifreeze on Mir that has caused a partial evacuation of one of the modules of Mir. It does not place our astronauts in a life-threatening situation at the present time, but this is the latest in a long line of safety problems, because the Mir space station has outlived its useful and functional life, and is continuing to be used by the Russians.

The bill is a good package of policy initiatives that will put the space station back on the right track when it comes to dealing with Russia. We are not imposing a solution on the administration, at least not yet. We are not imposing a solution because the committee still hopes to work with the White House to come up with a national solution to this problem.

But we are imposing a decision-making process with deadlines that will force the administration to resolve this problem, and to prevent a hemorrhage of more U.S. taxpayer funds from being unnecessarily used because delaying the problem's resolution will simply increase costs.

□ 1245

This reason alone is enough to warrant continuing bipartisan support for H.R. 1275.

Mr. Chairman, I yield such time as he may consume to gentleman from California [Mr. ROHRABACHER], chairman of the subcommittee.

Mr. ROHRABACHER. Mr. Chairman, I rise today in strong support of H.R. 1275, the Civilian Space Authorization Act of 1997.

This bill authorizes appropriations in fiscal years 1998 and 1999 for and provides policy direction to the National Aeronautics and Space Administration, the Office of Commercial Space Transportation in the Federal Aviation Administration, and the Office of Space Commerce in the Department of Commerce.

Mr. Chairman, just as our Nation's efforts are helping to open up America's next frontier, this bill makes pioneering strides in bipartisanship, in funding vital scientific and technological research, and in promoting our Nation's emerging commercial space enterprises.

I would like to thank the gentleman from Wisconsin [Mr. SENSENBRENNER], my chairman, for his leadership on the space issues within this bill and his help in my efforts to prepare this bill. I would also like to thank the ranking member of the full committee, the gentleman from California [Mr. BROWN], who has been a guidepost for the rest of us and made major contributions as well. The gentleman from California [Mr. BROWN] is a good friend and has contributed a great deal to this, as has the gentleman from Wisconsin [Mr. SENSENBRENNER].

I might add that the gentleman from Alabama [Mr. CRAMER] and I have developed a relationship that some Members probably thought was impossible for a partisan guy like me to do. But the gentleman from Alabama [Mr. CRAMER] and I have been working for our country's space efforts to make sure that America has the number one space effort in the world. We have put together a package today, and I am very, very pleased with the cooperation that we have had. I pledge that I will do my very best to keep that level of cooperation going.

I would also like to thank, in passing, the gentleman from Florida [Mr. WELDON], who is the subcommittee's capable and active vice chairman, who has probably been more active than any vice chairman of any subcommittee that I have ever been a member of. So we thank the gentleman from Florida [Mr. WELDON] as well.

Because we do not yet have a budget resolution, this year, this bill's funding levels are based on the Committee on Science's views and estimates which call for strengthening our Nation's research and development investments while pursuing the bipartisan goal of balancing the budget. Actually this bill provides a mere 1.25 percent increase, that is a 1¼ percent increase in the funding for NASA over last year, over fiscal year 1997 levels. That is less than inflation. We do that while holding the other two agencies basically constant.

This bill reflects funding priorities set by the Committee on Science and its Subcommittee on Space and Aeronautics over the last several years. Over the last several years, obviously, both parties have been in a leadership position in these committees. We strongly support human space flight, space science and the aeronautics and space technology efforts which will keep American industry number one and open the frontier of space to commercial enterprise.

With a few exceptions, we have approved the President's budget request for NASA. It is a greatly improved budget submission over the one he made for fiscal year 1997, especially with regard to the outyears. In two areas, we have added the funds necessary to achieve high priority goals. In others, we have made small reductions or limitations on the use of funds.

NASA Administrator Goldin has repeatedly stated to the Congress and audiences all over the country that his highest goal after preserving the safety of the space shuttle flight program is dramatically reducing the cost of transporting people and cargo into space. NASA has made an excellent start in that direction with the X–33 Program and its smaller sibling, X–34 Program. We are fully funding those programs and indeed specifically authorizing the X–33 Program.

Unfortunately, the NASA budget only has funds to develop and flight test one concept for the X–33. NASA has indicated both in testimony and direct conversations with me and my staff that they wish to pursue additional X-vehicles in the future to continue pushing down the cost of space transportation. This bill uses most of our increase over the President's request to fully fund a different competitively chosen X-vehicle by using the most advanced technologies possible as a complementary follow-on to X–33.

This will provide technical redundancy to the X–33 in case that program fails, and it will enable downstream competition in the reusable launch vehicle industry, should the X–33 program succeed.

It also will accelerate the drive toward cheap access to space and not in the long run but in the medium run save the taxpayers not only millions of dollars but billions of dollars by bringing down the cost of getting into space and making sure that as we explore and utilize space for national and all the purposes of mankind, that it not be, that the cost is not so high simply because the transportation costs are high.

Another goal of the subcommittee for NASA is preserving steady funding for scientific research. We are providing some small increases to the space science accounts in this bill, particularly for the analysis of data coming back from science missions and also for initiatives like asteroid detection and NASA participation in the Air Force's Clementine II asteroid intercept mission. We also increase and specify funding for life and microgravity sciences and applications, an area with tremendous potential to improve our daily lives here on earth and also an area which the gentleman from Alabama [Mr. CRAMER] in his remarks detailed for us that we learned during our hearings of the tremendous potential of this life and microgravity sciences.

Again, I would like to thank the gentleman from Alabama [Mr. CRAMER] for the positive role he played in those hearings and in relating that potential to us here today.

Perhaps the most well-known program in the bill is the International Space Station Program which we are fully funding at the President's request so it will enable vital science and help open new frontiers to American free enterprise. Of course, the space station program is currently facing the challenge of a lack of funding from the Russian Government for their share of the hardware. The Subcommittee on Space and Aeronautics held an excellent hearing on April 9 which discussed both the problems with the Russian partnership and the great importance of completing the space station on

schedule for scientific and commercial reasons.

On April 16, the committee adopted without a single opposing vote a bipartisan amendment by the gentleman from Wisconsin [Mr. SENSENBRENNER], and the ranking member, the gentleman from California [Mr. BROWN], which imposes a responsible decision-making process on the administration for solving this problem.

Now, this bill does not just fund NASA. As commercial space activities continue to grow, creating high-wage, high-technology jobs here in America, using private capital in doing so, it is vital that the Government can provide a stable and streamlined regulatory and positive business environment for this emerging space industry.

That is why President Reagan created the Office of Commercial Space Transportation and the Office of Space Commerce. This bill funds and directs the Office of Commercial Space Transportation, now part of the Federal Aviation Administration, to license commercial space transportation vehicles and spaceports. We also fully fund and permanently establish the Office of Space Commerce in the Department of Commerce, which promotes the growth of current and emerging new commercial space activities.

As I said earlier, this bill provides significant policy direction as well as authorizing appropriations. That direction boils down to two important themes: ensuring NASA's accountability in the spending of nearly $14 billion each year in taxpayer funds and improving the cost effectiveness of all Government civil space spending.

Regarding accountability, this bill gives NASA four major directives. First, in the International Space Station Program, the Congress should be better informed as to the thinking behind and the commercial impact of the international hardware barter agreements NASA is negotiating with various foreign entities.

Second, we want to make sure that as NASA consolidates its nonshuttle operational contracts and moves those activities more into the private sector, that NASA fully consider and inform the Congress regarding the issues of competition and fixed-price versus cost-plus-fee contracting. Third, we direct NASA to pursue independent cost analysis of its programs which include all costs to the taxpayers.

Finally, we direct NASA to provide the Congress with a detailed report on the status of the Earth Observing System data information system. Of course, all of us on the committee and in this body want to ensure that our constituents' tax dollars are spent as effectively as possible, particularly as we drive toward a balanced budget in the year 2002.

So for civil space, like all other so-called discretionary programs, the Congress and the administration must work hard to continually improve and reform the cost effectiveness of all Federal space activities. To that end, this bill does several things to improve both efficiency and effectiveness of the taxpayers' investment.

We include an initiative to improve NASA procurement of new technology. We direct NASA to actively pursue the greatest possible commercial participation and use of the International Space Station Program. We direct NASA to purchase space science data from commercial providers. We fund a continuing program at the Stennis Space Center to purchase commercial remote sensing data to more cheaply meet the needs of the Mission to Planet Earth Program. We strongly state our commitment to move from Government-operated space launch vehicles to the purchase of commercially provided launch services, including the possible option of a privatized shuttle fleet. And we place in statute a very important provision of the President's national space policy, mandating the purchase of, and preventing NASA competition with, commercially available space goods and services.

In closing, let me say a few more words about the bipartisanship that we have enjoyed over these last few months and how critical that has been to this legislation.

Our Nation's space efforts have been and should remain bipartisan in nature and bipartisan in their support.

But the world is changing. The cold war that motivated our earlier space efforts has long since gone. Our space program and our policies concerning space must change as well. Bureaucracies do not like change and they often use partisan differences to keep the legislative branch from promoting positive reforms. We have in these last few months forged a solid bipartisan coalition which will permit us to make sure the taxpayers are getting their money's worth and that America will remain the No. 1 Nation in space, the No. 1 space power on this planet.

The great achievement of this bill is that the funding priorities and policy direction we have set are supported by both policies. Together we are saying that the reason we are funding the space station is to do scientific research and to promote commercial opportunities. Together we are saying that the space shuttle should be upgraded to improve safety. Together we are saying that cheap access to space is a critical goal which deserves additional funding.

Together we are saying that the space commercialization offers tremendous opportunities for creating new jobs and industries without increasing and in fact in some instances decreasing the actual funding level that we have to deal with. So today I would ask my colleagues to join me in strong support for H.R. 1275. We have found it in our abilities to work together, and I am sure we will continue this cooperation throughout this session.

Mr. CRAMER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Brown], former chairman of the full committee, ranking member of the full committee, and strong advocate for NASA.

Mr. BROWN of California. Mr. Chairman, I thank the subcommittee ranking member for yielding me this time.

Of course, I would also like to rise in support of H.R. 1275. I want to particularly note the contribution that the chairman of the subcommittee, the gentleman from California [Mr. ROHRABACHER] has made. Much of the detail of this bill reflects his considerable input and his commitment to the space program.

□ 1300

I think all of my colleagues have noticed that the gentleman from California [Mr. ROHRABACHER] has made some changes. Some of these are highly visible, others are not quite so visible.

I, for example, have challenged his description of himself as an active partisan by accusing him of becoming a pragmatic statesman. He may not want me to say that in public, but it does reflect the fact that he has been able and has worked very closely with the minority in developing this excellent bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would say to the gentleman that serving on the Committee on Science from January 3, 1997, has been a tremendously maturing process for all of us.

Mr. BROWN of California. Mr. Chairman, reclaiming my time, I would note that I completely concur with the gentleman's statement.

Of course I will not belabor all the details of this bill, Mr. Chairman, which those who have worked more closely with it, including the gentleman from California [Mr. ROHRABACHER] and the gentleman from Alabama [Mr. CRAMER], have already spoken to or will speak to, but I would like to point out, just to emphasize the fact, that this bill does really represent a critical turning point in terms of support and funding for the NASA programs and many of the critical components in the national programs.

For example, I have been complaining to no avail now for several years that the budget for NASA, and particularly the 5-year outlook, was disastrous. As late as just last year, the projection was that we would be at about $11 billion per year by the year 2002. That has completely turned around, as has already been remarked

by the gentleman from California [Mr. ROHRABACHER], and we now appear, although it is never wise to take too much for granted, to have stabilized NASA at a figure of roughly $14 billion, slightly under $14 billion.

I personally do not consider that that gives sufficient weight to the many diverse contributions that NASA makes to the future of this country, both in terms of scientific productivity but as well in our opportunity to be commercial leaders in what I believe will be a huge market in space and in space-related activities over the near future. I think that a recognition of the importance of this has infused the gentleman from California and the gentleman from Wisconsin, and has encouraged them to help us to move toward taking advantage of these great opportunities that we will have in the future.

Mr. Chairman, I am going to just comment very briefly about a couple of items that have already been mentioned.

The amendment which the chairman and I jointly offered with regard to Russian participation is, I believe, both tough and prudent. We are aware of the need to have full Russian commitment, backed up with Russian dollars, for those parts of the program that they have committed themselves to.

I would like to say that the chairman has been most assiduous, most conscientious in making sure that we were fully informed as to the problems that the Russians were having and the need to correct those problems at the earliest possible date.

I think it needs to be said that the Russians do face a particularly difficult period at the present time in their evolution from their former status as a dictatorship to a form of democracy. That is not, I would say, U.S.-style democracy, but one in which there is greater participation by the citizens of the country, and so on. That transition is going to take years and, in the meantime, the Russian Government has severe problems which they need our help in trying to overcome.

Having said that, that does not absolve them from their responsibility to keep their commitments, and it is this keeping of commitments that is spoken to in the language of the bill which we have adopted and which I think will be very helpful and will provide a little better guidance to our own Government in terms of how to operate in this kind of a spirit.

I would like to indicate also that there are some areas that represent modest new programs in this bill, so modest I almost hesitate to mention them. But, for example, with regard to the Asteroid Program, which the gentleman from California mentioned, he and I both, I suspect, have a background in old science fiction novels in which asteroids collide with Earth.

This may not happen for a million years, but, who knows, we ought to be prepared even for something that may not occur for quite a period of time. And the steps to take efforts to prepare are so simple, so rudimentary, and so inexpensive that we are hardly justified in not doing it. It involves a modest effort to improve our observation of incoming asteroids or Earth orbit-crossing asteroids as well as comets or whatever else may be out there.

For a modest $1 or $2 million per year we can substantially increase our level of observation to the point where we are detecting if not 100 percent, almost 100 percent of objects which might be affected. And, of course, programs such as the Clementine Program and others that would seek to actually research ways in which we might alter the path of an incoming object at this stage are extremely inexpensive. They fit in well with many programs that the Defense Department already has, and we would be imprudent not to begin to focus on these at this modest level in order to achieve the additional degree of protection which we could conceivably achieve at this point.

So for these and many other reasons, I am strongly supportive of this bill. I look forward to, of course, another fruitful debate on whether or not we ought to continue with the space station. I trust that will not take up more time than is necessary and we can get through with it fairly quickly.

Mr. Chairman, I would like to rise in support of H.R. 1275, the Civilian Space Authorization Act, Fiscal years 1998 and 1999. While H.R. 1275 is not a perfect bill, I believe that it represents a reasonable bipartisan compromise that keeps the Nation's civil space program on course.

I am particularly pleased that the bill provides full funding for NASA's programs. It has been my belief that the Federal Government has not been making an adequate investment in research and development. If uncorrected, the consequences of the underinvestment will do serious damage to our long-term national competitiveness. As many of you know, I have introduced an investment budget proposal that addresses that concern. NASA's activities are an important part of our Nation's overall Federal investment in R&D, and I support H.R. 1275's strong commitment to funding those activities.

There are many features of the bill that I could discuss, but I will confine my remarks to just a few. In particular, I would like to call attention to provisions related to the space station that were added to the bill by Chairman SENSENBRENNER and myself.

I believe that the provisions governing the Russian participation are tough and prudent. We have received much of value from our cooperation with Russia to date, and I hope that that cooperation will continue. Although I have long argued that Russia should not be on the station's critical path, I do not believe that we should end Russia's involvement in the Space Station Program.

Nevertheless, it is important for Russia to honor its commitments to the International Space Station Program if we are to maintain a productive relationship. At the same time, we need to ensure that NASA has credible contingency plans in place in the event that the Russian contributions are further delayed. H.R. 1275 establishes a concrete series of steps to be taken by NASA and the administration to protect our investment in the Space Station Program.

Next, I would note that the bill makes some modest, but important increments to the funding for NASA's science programs. These include funds for the analysis of the data returned from the incredibly productive science missions that have been undertaken over the last several years. In addition, the bill provides a small amount of additional funding to speed the rate at which NASA and the Department of Defense are detecting and cataloging Earth-crossing asteroid and comets. I believe that this investment is a prudent "insurance policy" given the consequences for life on Earth if one of these bodies would ever impact the Earth.

One area of concern I have with the bill is language that would hold NASA's innovative Earth System Science Pathfinder Program—for which three contracts have already been awarded—hostage to the Earth science data purchase initiative. Since I interpret the data purchase provision as one that encourages NASA to buy such data when it is sensible and meets the scientific requirements of Mission to Planet Earth, these two activities appear to be totally unrelated and should not be linked in a punitive manner. Such actions send a chilling message to current and potential bidders of NASA programs. While I will not offer an amendment at this time, I hope that we can work together to remove this restriction prior to enactment.

In closing, I believe that, on balance, H.R. 1275 is a good bill, and I would urge Members to support it.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. WELDON], the distinguished vice chair of the subcommittee.

Mr. WELDON of Florida. Mr. Speaker, I thank the chairman for yielding me this time and I rise in strong support of H.R. 1275, the Civilian Space Authorization Act, and I commend both the chairman and the ranking member, as well as the subcommittee chairman, the gentleman from California [Mr. ROHRABACHER], and the subcommittee ranking member, the gentleman from Alabama [Mr. CRAMER], as well as the staff for putting together what I feel is a very well balanced and good piece of legislation.

In particular, I would like to associate myself with the remarks of the chairman regarding the Russian participation in the space station and, in particular, in support of the leadership that has been demonstrated by him as well as the ranking member in regard to the continuing ongoing problems with the Russian participation in this space station.

We have all been made aware on the committee, as well as many others in this body, of the tremendous potential that will come from the Space Station

Program. We have heard testimony from scientists regarding the tremendous breakthroughs in our understanding of human physiology and disease, in particular as it relates to heart disease, bone disease, as well as the development of new drugs and our better understanding of the transmission of some infectious diseases, such as cholera.

Despite all these exciting developments and the reality that the Space Station Program is well on track, our international partners, such as the Europeans and the Japanese, have spent well beyond $6 billion in preparing their hardware. A critical partner in this project, the Russians, who were brought into the program by the Clinton administration, have been failing to appropriate the necessary funds to fulfill their obligations associated with the program.

Might I say that I feel very strongly that it is in the best interest of our country that the Russians participate in the program, and I would like to see them continue to do so. Reality is such that their economy has not allowed them to support this program, and I, along with the chairman of the subcommittee and the full committee, went to Russia in February and were able to see first hand the serious nature of their internal financial problems.

What has been lacking in dealing with this problem associated with the program is, I believe, a failure of leadership on the part of the White House, and particularly the Office of the Vice President, to clearly define how we are going to get beyond this problem area so that this program can be completed on schedule.

Mr. Chairman, I congratulate again the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from California [Mr. BROWN] for their amendment that addresses this issue, and I am prepared to work with them to make sure that the space station goes on to become a reality, because I know first hand, as a practicing physician, the tremendous potential scientific benefits as well as medical benefits that we will see from this program.

I also rise in support of many of the other features associated with the program, such as the ongoing funding for the shuttle program, X-33, the Venture Star, as well as X-34, an important test bed technology that will help us develop new technologies for use in space.

I, additionally, want to rise in support of the space science features that are associated with this; and in particular, I want to thank the people at NASA, the men and women, who have worked very hard not only in helping us prepare this legislation but, as well, have been doing more with less for the past 5 years.

There have been many departments within the Federal Government that have been complaining about receiving decreases in the size of their increase. Whereas, NASA has been doing things better, faster, cheaper for a long time; and that is because of the commitment of the men and women at all the NASA centers all throughout our country to making sure that they keep their programs running efficiently and effectively. I would like to rise in strong support of them and again commend the ranking member and the chairman of the subcommittee for their hard work.

Mr. CRAMER. Mr. Chairman, I yield 2 minutes to my relentless colleague, the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. With that generous allocation of time, Mr. Chairman, let me first of all thank the gentleman from Alabama [Mr. CRAMER] for his time and his hard work on this budget and this bill. Let me thank the gentleman from California [Mr. BROWN] and the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from California [Mr. ROHRABACHER].

Certainly, the tone and the civility and bipartisanship of this committee have made it very, very easy to serve on for the past several months. In that tone, I also want to continue and say, as I rise today, I support about 80 percent of the NASA budget. I do not support a space station that started at $8 billion and now has costs of $100 billion over the lifetime of the contract.

But I do support so many good things that are taking place in this bill that most Americans do not even know about: the great observatories, which includes the Infrared, X ray, the Gamma Ray, and the Human Eye, the Hubble, which in this latest edition of National Geographic we are vividly shown the phenomenal and magnificent pictures that this eye is returning to us here on the ground.

I am a strong supporter of those great observatories and Hubble and the repair mission that the men and women pulled off so successfully in space. The *Galileo*, which explored Jupiter, has shown marvelous results for science. The Clementine project, which helped us map the Moon, I am a strong supporter; better, faster, cheaper, which allows us to get projects off the ground and into space with a cost efficiency that the taxpayer can be very proud of. And then the forgotten "A" in the NASA budget, aeronautics, where we helped develop the latest cleaner burning engine and helped our industry here in America compete with fledgling industries in Taiwan and in South Korea, in Japan and with Airbus in Europe.

It is in that context, Mr. Chairman, that we have a declining budget in NASA. We do not want the space station to cannibalize all these other good programs that are going on that return the money to the taxpayer. We want to get NASA back to the days where, for every dollar invested, $7 came back in return; and that is why I will be offering these two amendments later on in this process.

Mr. CRAMER. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Chairman, I rise to support the bill to reauthorize NASA. I would like to commend the Chair and ranking member for their work on this legislation. The bill before us provides adequate funding for NASA's important programs and gives the agency needed direction on a number of critical areas.

I also want to add how impressed I am with NASA projects that I have witnessed at close range at Vandenberg Air Force Base in the district that I am privileged to represent. In particular, I am pleased that the bill before us provides full funding for NASA's important Mission to Planet Earth Program.

I am a strong supporter of Mission to Planet Earth and grateful that the committee can work together in a bipartisan basis on this program. NASA has made great strides with this program, cutting the budget bill some 60 percent over the past several years, while continuing to achieve its original goals.

□ 1315

Mission to Planet Earth is a critical program that will expand our knowledge of ourselves, our Earth, and its incredibly complex environmental systems. I am convinced that we should never shrink from the opportunity to grasp such critically important knowledge about ourselves.

But Mission to Planet Earth will be more than the search for knowledge. With its series of orbiting satellites set to begin launching next year, Mission to Planet Earth's ability to accurately monitor and predict long-term climate variability will have great benefits for large sectors of our economy, including such diverse industries as agriculture, financial services, insurance, and disaster management. The ability to predict droughts, floods, and other cataclysmic natural events will reap huge benefits in lives and dollars for years to come.

Mission to Planet Earth information will not only be useful for long-range forecasting, but will have daily applications as well in agriculture. To use one example, farmers will be better able to anticipate irrigation and harvesting needs and disease control and eradication requirements.

As NASA programs add to our knowledge of the entire solar system, we must not lose sight of all that we still do not know about our own glorious world. Mission to Planet Earth will help fill in some of these gaps about our environmental systems, improving our quality of life here on Earth, while

we continue to explore the stars and the planets.

I urge my colleagues to support this important legislation.

Mr. CRAMER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. LAMPSON].

Mr. LAMPSON. I thank the gentleman for yielding me this time.

Mr. Chairman, for the sake of our future, I rise today to support full funding for the International Space Station. I represent the Johnson Space Center and the thousands of men and women whose livelihoods depend upon this project and our commitment to space exploration and research. I am proud to represent them, but I do not want my support for the space station to be viewed as pork-barrel politics, helping only the ninth district of Texas. In fact, we must all support the space station for our future.

I stand before you today to voice this support for the station because of what America learned about its future in 1969. At that time I was teaching physical science at South Park High School in Beaumont, TX, and I saw firsthand how our progress in space culminating in the lunar landing encouraged and inspired students. The prospect of a fully functioning international space station will rekindle our enthusiasm for space and science and lead us to greater discoveries than we can even comprehend today.

I have with me some of the 7,000 letters that were written by science and math teachers from all across America voicing their support for the space station. They know the space station is crucial to the future of science and technology in this Nation. I am proud to speak today on their behalf.

We have an obligation to the future of this Nation and to that of humanity to use our resources to discover and interpret the scientific advancements that can be made through research in space.

As the 19th century philosopher and mathematician W.K. Clifford said:

> You cannot fail to see that scientific thought is not an accompaniment or a condition of human progress, but human progress itself.

Scientists performing research in zero gravity have been able to make tremendous breakthroughs. Their work has already provided new information about the makeup of diseases such as cancer, emphysema, diabetes, heart disease and stroke, viral hepatitis, and influenza. We have all been affected by these illnesses, and we want to utilize every possible resource to find a cure or a successful treatment.

Despite what its detractors say, the international space station is not an amusement park for scientists. It has real world, real life implications for people on this planet. I recognize the need to balance our budget, but the 2.2 cents per day that it will cost each American to fund our portion of the international space station is an investment in healthier, longer lives and new high-technology industries.

An important issue at this point in time is the participation of the Russians in the international space station. We all regret their inability to deliver on their promises. But let us not forget, though, that the Russians were in space before we were and they have expertise that will benefit the space station. While Russia endures difficulty in its political and economic transformation, the international space station keeps the Russian scientific community constructively engaged. This project will help solidify relations between the United States and Russia and all the participating nations. The Russian historian Zhores Medvedev described how scientific progress improves relationships between nations in 1970.

He wrote:

> As science progresses, the worldwide cooperation of scientists and technologists becomes more and more of a special friendship, in which, in place of antagonism, there is a growing up, a mutually advantageous sharing of work, a coordination of efforts and a common language for the exchange of information, and a solidarity, which are in many cases independent of the social and political differences of individual States.

Space is not the domain of any nation. Those of us who have the ability to go into space are still obliged to share its wonders with the world.

In 1969, I watched wide eyed as the future of humanity was instantly and forever changed. I was overwhelmed by the sheer magnitude of what man had been able to accomplish. The promise of space still lies before us. Through the space station we can translate a little more of that promise into better lives for us here on Earth. With 160,000 pounds of flight hardware already constructed, two-thirds of the international development funds already spent and with a launch scheduled, why would we stop now? We cannot.

Mr. CRAMER. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the distinguished gentleman from Alabama, the subcommittee ranking member, for yielding me this time. I appreciate his leadership on these issues.

Mr. Chairman, I rise in support of the civilian space authorization, H.R. 1275. In doing so I would like to commend the Committee on Science's decision to authorize the President's full fiscal year 1998 funding request of $1.4 billion for NASA's Mission to Planet Earth. The committee's decision to remove from the bill a provision mandating that $200 million of the Mission to Planet Earth budget come from an existing fund, this is a welcome addition.

Mission to Planet Earth research is expanding our understanding of the Earth's environment and natural processes, giving us new insights into how humanity affects and is affected by them, this unique research to yield practical, tangible benefits for all Americans and people around the globe.

Having said this, Mr. Chairman, I must say that my support for this bill has some reservations. There is one very ill-conceived, in my opinion, provision in this bill. I want to declare my intention to work to prevent its inclusion in the Senate bill and in the conference report.

This bill holds hostage one of the most low-cost, cost-effective programs in the NASA budget, the Earth Space Pathfinders Program. Section 127 precludes any and all funding for pathfinder missions unless and until NASA certifies that it will expend $50 million in fiscal 1998 for commercial data buys.

That may be a good policy, but, Mr. Chairman, there is no good reason for this relationship. There is no programmatic link and no legitimate policy reason to justify making the funding of pathfinders projects contingent on expenditures for commercial data buys. This is simply an attempt to force NASA's hand on a program and a concept to which NASA has already demonstrated its commitment.

I would point out to my colleagues that the pathfinders program is the direct product of a recommendation of the National Science Foundation, a recommendation solicited by former Committee on Science Chair Bob Walker. NASA has already approved two ESSP proposals and one alternate. Missions are selected not only for their scientific merit, but for their commercial application and potential as well. By changing the rules in midgame and effectively yanking the rug from under investigators with existing contracts, this provision threatens not just these contracts but NASA's overall credibility. If enacted, it would chill the willingness of companies and institutions to compete for contracts or develop new applications.

Mr. Chairman, I will vote for the bill because of its support for Mission to Planet Earth and other component parts. In the coming weeks, however, I will be working with my Senate colleagues to ensure that the Senate hopefully does not approve this restriction on the Pathfinder Program.

I thank my friend the gentleman from Alabama, the chairman of the committee, and others for working effectively on this bill and hope that they would look at this particular provision and reconsider its impact both on NASA and on the private sector.

Mr. CRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing on this side because we have no more speakers during general debate, I once again would like to congratulate the chairman of the committee and the chairman of the

subcommittee. They have certainly made my few months in this job a pleasure. I have enjoyed working with them, and I think we have accomplished a lot. I particularly enjoy the way the gentleman from California [Mr. ROHRABACHER] has approached the hearings of the committee and I look forward to working with him more thoroughly as we move on through the year.

In closing, I would just like to make the point that NASA is an important part of America's total investment in R&D. NASA has pushed back the boundaries in countless areas of space and technology. We have so much to be thankful to NASA for. Their aeronautics programs have helped stimulate the growth and prosperity of our Nation's aviation industry, an industry that is the envy of all the world. Most importantly, NASA's programs have inspired our youth. NASA's achievements are a proud symbol of America's technological superiority and our citizens have reaped a bountiful harvest from our investment in the space program.

In sum, I believe that H.R. 1275 is a bill that maintains a balanced civil space program and maintains America's leadership in space. I urge my fellow Members to support this bill.

Ms. HARMAN. Mr. Chairman. I rise today to voice my strong support for H.R. 1275, the Civilian Space Authorization Act.

I have said time and time again here on the House floor, and in the Science Committee during the last two Congresses when I had the honor of serving on that committee, that we must provide the Nation with an adequately funded civilian space program which balances human space flight with science, aeronautics, and technology. While we must act swiftly to balance the budget, I believe we must be careful to not make shortsighted cuts in our country's research and development efforts.

In my view, H.R. 1275 gives our Nation a balanced space program. The bill moves us toward a permanent human presence in space, toward new and exciting scientific discoveries, and finally toward the development of a fully-reusable launch vehicle.

I am particularly pleased that this legislation fully-funds NASA's Mission to Planet Earth. From the unique vantage point of space, NASA's Earth observing satellites will help us understand our changing planet. Mission to Planet Earth will provide us with scientific answers to a wide range of global change questions.

We'll learn more about our planet's ozone layer and its polar ice caps. Most importantly, because of its comprehensive nature, Mission to Planet Earth will allow scientists to study the interplay between land, sea, and air here on our planet—perhaps to one day avoid the devastation which the residents of the Northern Plains are currently suffering.

In addition to these and other scientific benefits, Mission to Planet Earth data will have immediate practical applications. Farmers will make use of soil condition information as they seek to better plant their crops. Firefighters are already using NASA remote sensing data to help them battle forest fires. The list goes on and on.

Mr. Chairman, it was unfortunate that the 104th Congress was such a difficult one for Mission to Planet Earth, where the program was tossed around like a partisan football. But today, in a new Congress under new leadership, I would like to congratulate Science Committee Chairman JAMES SENSENBRENNER and Ranking Member GEORGE BROWN; and Space Subcommittee Chairman DANA ROHRABACHER and Ranking Member BUD CRAMER for putting partisanship behind and unifying support for this important program.

I urge my colleagues to support this legislation, which will continue our country's leadership in space well into the 21st century.

Mr. HILLEARY. Mr. Chairman, I rise to encourage the House Members to vote for H.R. 1275, Civilian Space Authorization Act. It is a good bill that authorizes vital programs and includes helpful language that affects the whole country.

This bill has provisions to update the language of the Unitary Wind Tunnel Act of 1949 which originally declared that the NASA Administrator and the Secretary of Defense should jointly develop a plan for construction of:

Wind tunnel facilities for the solution of research, development, and evaluation problems in aeronautics at educational institutions within the continental limits of the United States for training and research in aeronautics, and to revise the uncompleted portions of the unitary plan from time to time to accord with changes in national defense requirements and scientific and technical advances.

The field of aeronautics has received many advances since this act was last amended in 1958—almost four decades ago. Unfortunately, as this Nation's facilities are showing their age, and the European countries, in a consortium, recently opened a new transonic wind tunnel which is technologically superior to any in the United States. This will have a direct effect on improving the competitiveness of European aircraft in the global market.

Mr. Chairman, just a few short years ago, the U.S. aerospace industry accounted for around 70 percent of the global market, recent reports show that we may have dropped below 50 percent. This loss of market share costs us billions of dollars in our trade deficit and each percentage point of global aerospace market lost by our domestic companies translates into Americans losing their jobs.

A study conducted by the National Research Council [NRC] in 1992 identified that our current wind tunnel facilities are inadequate for maintaining aeronautical superiority into the next century.

I believe that the integrated planning and organizational framework envisioned in the Unitary Wind Tunnel Plan Act of 1949, as amended in H.R. 1275, is a suitable and appropriate vehicle for the planning, development, and operation of aeronautics research and test facilities and activities in transonic, supersonic, and hypersonic flight regimes, since all regimes influence performance, cost and competition for civil aviation directly undertaken in whole or in part by NASA.

Although plans to build a new wind tunnel facility have been deferred, I believe the amendment included in the bill will properly update the Unitary Wind Tunnel Act to account for technological advances.

This will lay the proper foundation in the law should Congress and industry agree to construct new facilities in the future.

I thank Mr. ROHRABACHER for his foresight in adding this technical amendment to the manager's amendment and I encourage my colleagues to support this bill.

Mr. BLILEY. Mr. Chairman, I would like to insert attached letter in the RECORD as part of the debate on H.R. 1275 to note the interests of the Committee on Commerce in this piece of legislation.

April 24, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On April 17, 1997, the Committee on Science ordered reported H.R. 1275, the Civilian Space Authorization Act. This measure authorizes appropriations for the National Aeronautics Space Administration (NASA), and other space-related projects that include provisions on interstate and foreign commerce, and communications issues within the jurisdiction of the Committee on Commerce.

The bill has provisions that would regulate "commercial providers," defined in section 3(2) as "any person providing space transportation services or other space-related activities, primary control of which is" privately held. Of particular concern in this definition is the term "space-related activities," which would be interpreted to include both commerce and communications activities. In fact, this term could encompass policy and regulatory activities for communications or spectrum operations, including those that involve the use of satellite systems, within the jurisdiction of the Commerce Committee.

Section 303 of the bill, which establishes the Office of Space Commerce, raises similar concerns. For example, one of the six "primary responsibilities" of the Office of Space Commerce mandated in section 303(b)(5) would be to represent the Department of Commerce in the "development of U.S. policies and in negotiations with foreign countries to ensure free and fair trade internationally in the area of space commerce." This provision implicates the Commerce Committee's jurisdiction regarding interstate and foreign commerce, particularly with regard to communications policy in the international marketplace.

With regard to satellite systems, section 321 refers to the use of a NASA Tracking Data Relay Satellite System (TDRSS). The Commerce Committee has jurisdiction over policy or regulations on communications or spectrum activities, including the use of spectrum and orbital locations for satellites used for communications, as well as spectrum interference issues related to satellites, including but not limited to the TRDSS satellites. Therefore, section 321 is of jurisdictional interest to the Commerce Committee.

Nonetheless, recognizing the desire to bring this legislation expeditiously before the House, I will not seek a sequential referral of the bill. However, by not seeking a sequential referral, this Committee does not waive its jurisdictional interest in matters within the purview of the Committee. I would appreciate your support of my effort to seek conferees on all provisions of the bill that are within the Commerce Committee's

jurisdiction during any House-Senate conference that may be convened on this legislation.

Sincerely,

TOM BLILEY,
Chairman.

Mr. CRAMER. Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I also yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by titles and each title shall be 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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Civilian Space Authorization Act, Fiscal Years 1998 and 1999".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SUBTITLE A—AUTHORIZATIONS

Sec. 101. Human space flight.
Sec. 102. Science, aeronautics, and technology.
Sec. 103. Mission support.
Sec. 104. Inspector General.
Sec. 105. Total authorization.
Sec. 106. Office of Commercial Space Transportation authorization.
Sec. 107. Office of Space Commerce.
Sec. 108. United States-Mexico Foundation for Science.

SUBTITLE B—RESTRUCTURING THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sec. 111. Findings.
Sec. 112. Restructuring reports.

SUBTITLE C—LIMITATIONS AND SPECIAL AUTHORITY

Sec. 121. Use of funds for construction.
Sec. 122. Availability of appropriated amounts.
Sec. 123. Reprogramming for construction of facilities.
Sec. 124. Consideration by committees.
Sec. 125. Limitation on obligation of unauthorized appropriations.
Sec. 126. Use of funds for scientific consultations or extraordinary expenses.
Sec. 127. Mission to Planet Earth limitation.
Sec. 128. Space operations.
Sec. 129. International Space University Limitation.
Sec. 130. Space Station program responsibilities transfer limitation.

TITLE II—INTERNATIONAL SPACE STATION

Sec. 201. Findings.
Sec. 202. Commercialization of Space Station.
Sec. 203. Space Station accounting reports.
Sec. 204. Report on international hardware agreements.
Sec. 205. International Space Station limitations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Commercial space launch amendments.
Sec. 302. Requirement for independent cost analysis.
Sec. 303. Office of Space Commerce.
Sec. 304. National Aeronautics and Space Act of 1958 amendments.
Sec. 305. Procurement.
Sec. 306. Acquisition of space science data.
Sec. 307. Commercial space goods and services.
Sec. 308. Acquisition of earth science data.
Sec. 309. EOSDIS report.
Sec. 310. Shuttle privatization.
Sec. 311. Launch voucher demonstration program amendments.
Sec. 312. Use of abandoned and underutilized buildings, grounds, and facilities.
Sec. 313. Cost effectiveness calculations.
Sec. 314. Foreign contract limitation.
Sec. 315. Authority to reduce or suspend contract payments based on substantial evidence of fraud.
Sec. 316. Next Generation Internet.
Sec. 317. Limitations.
Sec. 318. Notice.
Sec. 319. Sense of Congress on the Year 2000 problem.
Sec. 320. National Oceanographic Partnership Program.
Sec. 321. National Science Foundation Antarctic Program.
Sec. 322. Buy American.

The CHAIRMAN pro tempore. Are there amendments to section 1?

Mr. SENSENBRENNER. 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 pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The National Aeronautics and Space Administration should aggressively pursue actions and reforms directed at reducing institutional costs, including management restructuring, facility consolidation, procurement reform, personnel base downsizing, and convergence with other defense and commercial sector systems.

(2) The National Aeronautics and Space Administration must reverse its current trend toward becoming an operational agency, and return to its proud history as the Nation's leader in basic scientific, air, and space research.

(3) The United States is on the verge of creating and using new technologies in microsatellites, information processing, and space launches that could radically alter the manner in which the Federal Government approaches its space mission.

(4) The overwhelming preponderance of the Federal Government's requirements for routine, nonemergency manned and unmanned space transportation can be met most effectively, efficiently, and economically by a free and competitive market in privately developed and operated space transportation services.

(5) In formulating a national space transportation service policy, the National Aeronautics and Space Administration should aggressively promote the pursuit by commercial providers of development of advanced space transportation technologies including reusable space vehicles, single-stage-to-orbit vehicles, and human space systems.

(6) The Federal Government should invest in the types of research and innovative technology in which United States commercial providers do not invest, while avoiding competition with the activities in which United States commercial providers do invest.

(7) International cooperation in space exploration and science activities serves the United States national interest—

(A) when it—

(i) reduces the cost of undertaking missions the United States Government would pursue unilaterally;

(ii) enables the United States to pursue missions that it could not otherwise afford to pursue unilaterally; or

(iii) enhances United States capabilities to use and develop space for the benefit of United States citizens; and

(B) when it does not—

(i) otherwise harm or interfere with the ability of United States commercial providers to develop or explore space commercially;

(ii) interfere with the ability of Federal agencies to use space to complete their missions;

(iii) undermine the ability of United States commercial providers to compete favorably with foreign entities in the commercial space arena; or

(iv) transfer sensitive or commercially advantageous technologies or knowledge from the United States to other countries or foreign entities except as required by those countries or entities to make their contribution to a multilateral space project in partnership with the United States, or on a quid pro quo basis.

(8) The National Aeronautics and Space Administration and the Department of Defense can cooperate more effectively in leveraging their mutual capabilities to conduct joint space missions that improve United States space capabilities and reduce the cost of conducting space missions.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider"ans any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(5) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers to companies described in subparagraph (A) with respect to local investment opportunities that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Subtitle A—Authorizations

SEC. 101. HUMAN SPACE FLIGHT.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Human Space Flight the following amounts:

(1) For the Space Station—

(A) for fiscal year 1998, $2,121,300,000, of which $400,500,000, notwithstanding section 121(a)—

(i) shall only be for Space Station research or for the purposes described in section 102(2); and

(ii) shall be administered by the Office of Life and Microgravity Sciences and Applications; and

(B) for fiscal year 1999, $2,109,200,000, of which $496,200,000, notwithstanding section 121(a)—

(i) shall only be for Space Station research or for the purposes described in section 102(2); and

(ii) shall be administered by the Office of Life and Microgravity Sciences and Applications.

(2) For Space Shuttle Operations—

(A) for fiscal year 1998, $2,494,400,000; and

(B) for fiscal year 1999, $2,625,600,000.

(3) For Space Shuttle Safety and Performance Upgrades—

(A) for fiscal year 1998, $483,400,000, including related Construction of Facilities for—

(i) Repair of Payload Changeout Room Wall in Ceiling, Pad A, Kennedy Space Center, $2,200,000;

(ii) Restoration of Pad Surface and Slope, Kennedy Space Center, $1,800,000; and

(iii) Rehabilitation of 480V Electrical Distribution System, Kennedy Space Center, $2,800,000; and

(B) for fiscal year 1999, $392,900,000.

(4) For Payload and Utilization Operations—

(A) for fiscal year 1998, $247,400,000; and

(B) for fiscal year 1999, $178,600,000.

SEC. 102. SCIENCE, AERONAUTICS, AND TECHNOLOGY.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Science, Aeronautics, and Technology the following amounts:

(1) For Space Science—

(A) for fiscal year 1998, $2,079,800,000, of which—

(i) $47,600,000 shall be for the Gravity Probe B;

(ii) $5,000,000 shall be for participation in Clementine 2 (Air Force Program Element 0603401F "Advanced Spacecraft Technology");

(iii) $3,400,000 shall be for the Near Earth Object Survey;

(iv) $529,400,000 shall be for Mission Operations and Data Analysis, of which $150,000,000 shall be for data analysis; and

(v) $5,000,000 shall be for the Solar B program; and

(B) for fiscal year 1999, $2,085,400,000, of which—

(i) $5,000,000 shall be for participation in Clementine 2 (Air Force Program Element 0603401F "Advanced Spacecraft Technology");

(ii) $3,400,000 shall be for the Near Earth Object Survey;

(iii) $561,100,000 shall be for Mission Operations and Data Analysis, of which $184,400,000 shall be for data analysis; and

(iv) $15,000,000 shall be for the Solar B program.

(2) For Life and Microgravity Sciences and Applications—

(A) for fiscal year 1998, $234,200,000, of which—

(i) $2,000,000 shall be for research and early detection systems for breast and ovarian cancer and other women's health issues; and

(ii) $2,000,000, shall be for modifications for the installation of the Bio-Plex, Johnson Space Center; and

(B) for fiscal year 1999, $249,800,000, of which $2,000,000 shall be for research and early detection systems for breast and ovarian cancer and other women's health issues.

(3) For Mission to Planet Earth, subject to the limitations set forth in section 127—

(A) for fiscal year 1998, $1,417,300,000, of which—

(i) $50,000,000 shall be for commercial Earth science data purchases under section 308(a);

(ii) $8,000,000 shall be for continuing operations of the Midcourse Space Experiment spacecraft constructed for the Ballistic Missile Defense Organization, except that such funds may not be obligated unless the Administrator receives independent validation of the scientific requirements for Midcourse Space Experiment data; and

(iii) $10,000,000 shall be for the lightning mapper, except that such funds may not be obligated unless the Administrator receives independent validation of the scientific requirements for lightning mapper data; and

(B) for fiscal year 1999, $1,446,300,000, of which—

(i) $50,000,000 shall be for commercial Earth science data purchases under section 308(a); and

(ii) $10,000,000 shall be for the lightning mapper, except that such funds may not be obligated unless the Administrator receives independent validation of the scientific requirements for lightning mapper data.

(4) For Aeronautics and Space Transportation Technology—

(A) for fiscal year 1998, $1,769,500,000, of which—

(i) $915,100,000 shall be for Aeronautical Research and Technology, of which not more than $35,700,000 shall be for High Performance Computing and Communications;

(ii) $696,600,000 shall be for Advanced Space Transportation Technology, including—

(I) $333,500,000, which shall only be for the X-33 advanced technology demonstration vehicle program, including $3,700,000 for rehabilitation and modification of the B2 test stand, Stennis Space Center;

(II) $150,000,000, which shall only be for a program of focused technology demonstrations to support the competitive awarding of a contract to develop, build, and flight test an experimental single-stage-to-orbit demonstration vehicle, which will be a complementary follow-on to the X-33, and which uses design concepts different from, and technologies more advanced than, the design concepts and technologies used for the X-33 program; and

(III) $150,000,000, which shall only be for the procurement of an experimental vehicle described in subclause (II), after the expiration of 30 days after the Administrator has transmitted to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report including a plan for the experimental vehicle program and the projected costs thereof; and

(iii) $157,800,000 shall be for Commercial Technology, of which $10,000,000 shall be for business facilitators, selected by a National Aeronautics and Space Administration Center with an existing State partnership for the purpose of developing business facilitators, from among candidates who receive at least 40 percent State matching funds and who obtain significant participation from local community colleges; and

(B) for fiscal year 1999, $1,816,400,000, of which—

(i) $832,400,000 shall be for Aeronautical Research and Technology;

(ii) $818,600,000 shall be for Advanced Space Transportation Technology, including—

(I) $313,900,000, which shall only be for the X-33 advanced technology demonstration vehicle program;

(II) $425,000,000, which shall only be for the procurement of an experimental vehicle described in subparagraph (A)(ii)(II); and

(III) $40,770,000, which shall only be for the Advanced Space Transportation program; and

(iii) $165,400,000 shall be for Commercial Technology, of which $10,000,000 shall be for business facilitators, selected by a National Aeronautics and Space Administration Center with an existing State partnership for the purpose of developing business facilitators, from among candidates who receive at least 40 percent State matching funds and who obtain significant participation from local community colleges.

(5) For Mission Communication Services—

(A) for fiscal year 1998, $400,800,000; and

(B) for fiscal year 1999, $436,100,000.

(6) For Academic Programs—

(A) for fiscal year 1998, $102,200,000, of which—

(i) $15,300,000 shall be for the National Space Grant College and Fellowship Program; and

(ii) $46,700,000 shall be for minority university research and education, including $31,300,000 for Historically Black Colleges and Universities; and

(B) for fiscal year 1999, $108,000,000, of which $51,700,000 shall be for minority university research and education, including $33,800,000 for Historically Black Colleges and Universities.

SEC. 103. MISSION SUPPORT.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Mission Support the following amounts:

(1) For Safety, Reliability, and Quality Assurance—

(A) for fiscal year 1998, $37,800,000; and

(B) for fiscal year 1999, $43,000,000.

(2) For Space Communication Services—

(A) for fiscal year 1998, $245,700,000; and

(B) for fiscal year 1999, $204,400,000.

(3)(A) For Construction of Facilities, including land acquisition, for fiscal year 1998, $159,400,000, including the following:

(i) Modernization of Process Cooling System, Numerical Aerodynamic Simulation Facility, Ames Research Center, $2,700,000.

(ii) Rehabilitation and Modification of Hangar and Shop, Dryden Flight Research Center, $2,800,000.

(iii) Restoration of Chilled Water Distribution System, Goddard Space Flight Center, $2,400,000.

(iv) Restoration of Space/Terrestrial Application Facility, Goddard Space Flight Center, $4,600,000.

(v) Construction of Emergency Services Facility, Jet Propulsion Laboratory, $4,800,000.

(vi) Upgrade of Utility Annex Chilled Water Plant, Kennedy Space Center, $5,900,000.

(vii) Rehabilitation of High-Voltage System, Lewis Research Center, $9,400,000.

(viii) Modification of Chilled Water System, Marshall Space Flight Center, $7,000,000.

(ix) Minor Revitalization of Facilities at Various Locations, not in excess of $1,500,000 per project, $65,700,000.

(x) Minor construction of new facilities and additions to existing facilities at various locations, $1,100,000.

(xi) Facility planning and design, not otherwise provided for, $19,000,000.

(xii) Environmental compliance and restoration, $34,000,000.

(B) For Construction of Facilities, including land acquisition, for fiscal year 1999, $188,900,000.

(4) For Research and Program Management, including personnel and related costs, travel, and research operations support—

(A) for fiscal year 1998, $2,070,300,000; and

(B) for fiscal year 1999, $2,022,600,000.

SEC. 104. INSPECTOR GENERAL.

There are authorized to be appropriated to the National Aeronautics and Space Administration for Inspector General—

(1) for fiscal year 1998, $18,300,000; and

(2) for fiscal year 1999, $18,600,000.

SEC. 105. TOTAL AUTHORIZATION.

Notwithstanding any other provision of this title, the total amount authorized to be appropriated to the National Aeronautics and Space Administration under this Act shall not exceed—

(1) for fiscal year 1998, $13,881,800,000; and

(2) for fiscal year 1999, $13,925,800,000.

SEC. 106. OFFICE OF COMMERCIAL SPACE TRANSPORTATION AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of Commercial Space Transportation—

(1) for fiscal year 1998, $6,000,000; and

(2) for fiscal year 1999, $6,000,000.

SEC. 107. OFFICE OF SPACE COMMERCE.

There are authorized to be appropriated to the Secretary of Commerce for the activities of the Office of Space Commerce established by section 303 of this Act—

(1) for fiscal year 1998, $500,000; and

(2) for fiscal year 1999, $500,000.

SEC. 108. UNITED STATES-MEXICO FOUNDATION FOR SCIENCE.

There are authorized to be appropriated to the National Aeronautics and Space Administration for the United States-Mexico Foundation for Science—

(1) $1,000,000 for fiscal year 1998; and

(2) $1,000,000 for fiscal year 1999.

Subtitle B—Restructuring the National Aeronautics and Space Administration

SEC. 111. FINDINGS.

The Congress finds that—

(1) the restructuring of the National Aeronautics and Space Administration is essential to accomplishing the space missions of the United States while simultaneously balancing the Federal budget;

(2) to restructure the National Aeronautics and Space Administration rapidly without reducing mission content and safety requires objective financial judgment; and

(3) a formal economic review of its missions and the Federal assets that support them is required in order to plan and implement needed restructuring of the National Aeronautics and Space Administration.

SEC. 112. RESTRUCTURING REPORTS.

(a) IMPLEMENTATION REPORT.—The Administrator shall transmit to Congress, no later than 90 days after the date of the enactment of this Act, a report—

(1) describing its restructuring activities by fiscal year, including, at a minimum, a description of all actions taken or planned to be taken after July 31, 1995, and before October 1, 2002, including contracts terminated or consolidated; reductions in force; relocations of personnel and facilities; sales, closures, or mothballing of capital assets or facilities; and net savings to be realized from such actions by fiscal year; and

(2) describing the status of the implementation of recommendations resulting from the Zero Base Review, particularly with respect to the designation of lead Centers and any increases and decreases in the roles and responsibilities of all Centers.

(b) PROPOSED LEGISLATION.—The President shall propose to Congress, not later than 180 days after the date of the enactment of this Act, all enabling legislation required to carry out actions described by the Administrator's report under subsection (a).

Subtitle C—Limitations and Special Authority

SEC. 121. USE OF FUNDS FOR CONSTRUCTION.

(a) AUTHORIZED USES.—Funds appropriated under sections 101 (1) through (4), 102, and 103 (1) and (2), and funds appropriated for research operations support under section 103(4), may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities at any location in support of the purposes for which such funds are authorized.

(b) LIMITATION.—No funds may be expended pursuant to subsection (a) for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $500,000, until 30 days have passed after the Administrator has notified the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.

(c) TITLE TO FACILITIES.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

SEC. 122. AVAILABILITY OF APPROPRIATED AMOUNTS.

To the extent provided in appropriations Acts, appropriations authorized under subtitle A may remain available without fiscal year limitation.

SEC. 123. REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.

(a) IN GENERAL.—Appropriations authorized for construction of facilities under section 101(3)(A) (i) through (iii), 102 (2)(A)(ii) and (4)(A)(ii)(I), or 103(3)—

(1) may be varied upward by 10 percent in the discretion of the Administrator; or

(2) may be varied upward by 25 percent, to meet unusual cost variations, after the expiration of 15 days following a report on the circumstances of such action by the Administrator to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The aggregate amount authorized to be appropriated for construction of facilities under sections 101(3)(A) (i) through (iii), 102 (2)(A)(ii) and (4)(A)(ii)(I), and 103(3) shall not be increased as a result of actions authorized under paragraphs (1) and (2) of this subsection.

(b) SPECIAL RULE.—Where the Administrator determines that new developments in the national program of aeronautical and space activities have occurred; and that such developments require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next National Aeronautics and Space Administration authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities, the Administrator may use up to $10,000,000 of the amounts authorized under sections 101(3)(A) (i) through (iii), 102 (2)(A)(ii) and (4)(A)(ii)(I), and 103(3) for each fiscal year for such purposes. No such funds may be obligated until a period of 30 days has passed after the Administrator has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a written report describing the nature of the construction, its costs, and the reasons therefor.

SEC. 124. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of law—

(1) no amount appropriated to the National Aeronautics and Space Administration may be used for any program for which the President's annual budget request included a request for funding, but for which the Congress denied or did not provide funding;

(2) no amount appropriated to the National Aeronautics and Space Administration may be used for any program in excess of the amount actually authorized for the particular program under this title; and

(3) no amount appropriated to the National Aeronautics and Space Administration may be used for any program which has not been presented to the Congress in the President's annual budget request or the supporting and ancillary documents thereto,

unless a period of 30 days has passed after the receipt by the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 125. LIMITATION ON OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.

(a) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—Not later than—

(A) 30 days after the later of the date of the enactment of an Act making appropriations to the National Aeronautics and Space Administration for fiscal year 1998 and the date of the enactment of this Act; and

(B) 30 days after the date of the enactment of an Act making appropriations to the National Aeronautics and Space Administration for fiscal year 1999,

the Administrator shall submit a report to Congress and to the Comptroller General.

(2) CONTENTS.—The reports required by paragraph (1) shall specify—

(A) the portion of such appropriations which are for programs, projects, or activities not authorized under subtitle A of this title, or which are in excess of amounts authorized for the relevant program, project, or activity under this Act; and

(B) the portion of such appropriations which are authorized under this Act.

(b) FEDERAL REGISTER NOTICE.—The Administrator shall, coincident with the submission of each report required by subsection (a), publish in the Federal Register a notice of all programs, projects, or activities for which funds are appropriated but which were not authorized under this Act, and solicit public comment thereon regarding the impact of such programs, projects, or activities on the conduct and effectiveness of the national aeronautics and space program.

(c) LIMITATION.—Notwithstanding any other provision of law, no funds may be obligated for any programs, projects, or activities of the National Aeronautics and Space Administration for fiscal year 1998 or 1999 not authorized under this Act until 30 days have passed after the close of the public comment period contained in a notice required by subsection (b).

SEC. 126. USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.

Not more than $30,000 of the funds appropriated under section 102 may be used for scientific consultations or extraordinary expenses, upon the authority of the Administrator.

SEC. 127. MISSION TO PLANET EARTH LIMITATION.

No funds appropriated pursuant to this Act shall be used for Earth System Science Pathfinders for a fiscal year unless the Administrator has certified to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that at least $50,000,000 are available for that fiscal year for obligations by the Commercial Remote Sensing Program at Stennis Space Center for commercial data purchases under section 308(a). No funds appropriated pursuant to section 102(3) shall—

(1) be transferred to any museum; or

(2) be used for the United States Man and the Biosphere Program, or related projects.

SEC. 128. SPACE OPERATIONS.

No funds appropriated pursuant to this Act shall be used for Phase Two of the Consolidated Space Operations Contract until a period of 30 days has passed after the Administrator has transmitted to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report which—

(1) compares the cost-effectiveness of the single cost-plus contract approach of the Consolidated Space Operations Contract and a multiple fixed-price contracts approach;

(2) analyzes the differences in the competition generated through the bidding process used for the Consolidated Space Operations Contract as opposed to multiple fixed-price contracts; and

(3) describes how the Consolidated Space Operations Contract can be transformed into fixed-price contracts, and whether the National Aeronautics and Space Administration intends to make such a transition.

SEC. 129. INTERNATIONAL SPACE UNIVERSITY LIMITATION.

No funds appropriated pursuant to this Act shall be used to pay the tuition or living expenses of any National Aeronautics and Space Administration employee attending the International Space University.

SEC. 130. SPACE STATION PROGRAM RESPONSIBILITIES TRANSFER LIMITATION.

No funds appropriated pursuant to this Act shall be used to transfer any Space Station program responsibilities in effect at any National Aeronautics and Space Administration Center as of October 1, 1996.

TITLE II—INTERNATIONAL SPACE STATION

SEC. 201. FINDINGS.

The Congress finds that—

(1) the development, assembly, and operation of the International Space Station is in the national interest of the United States;

(2) the significant involvement by commercial providers in marketing and using, competitively servicing, and commercially augmenting the operational capabilities of the International Space Station during its assembly and operational phases will lower costs and increase benefits to the international partners; and

(3) when completed, the International Space Station will be the largest, most capable microgravity research facility ever developed. It will provide a lasting framework for conducting large-scale science programs with international partners and it is the next step in the human exploration of space. The United States should commit to completing this program, thereby reaping the benefits of scientific research and international cooperation.

SEC. 202. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal year 1998 and 1999;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 1999, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar year 1997 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

SEC. 203. SPACE STATION ACCOUNTING REPORTS.

(a) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall transmit to the Congress a report containing a description of all Space Station-related agreements entered into by the United States with a foreign entity after September 30, 1993, along with—

(1) a complete accounting of all costs to the United States incurred during fiscal years 1994 through 1996 pursuant to each such agreement; and

(2) an estimate of future costs to the United States pursuant to each such agreement.

(b) ANNUAL REPORTS.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 1997, the Administrator shall transmit to the Congress a report containing a description of all Space Station-related agreements entered into by the United States with a foreign entity during the preceding fiscal year, along with—

(1) a complete accounting of all costs to the United States incurred during that fiscal year pursuant to each such agreement; and

(2) an estimate of future costs to the United States pursuant to each such agreement.

SEC. 204. REPORT ON INTERNATIONAL HARDWARE AGREEMENTS.

Not later than 90 days after the date of the enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

(1) agreements that have been reached with foreign entities to transfer to a foreign entity the development and manufacture of International Space Station hardware baselined to be provided by the United States; and

(2) the impact of those agreements on United States operating costs and United States utilization shares of the International Space Station.

At least 90 days before entering into any additional agreements of the type described in paragraph (1), the Administrator shall report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the nature of the proposed agreement and the anticipated cost, schedule, commercial, and utilization impacts of the proposed agreement.

SEC. 205. INTERNATIONAL SPACE STATION LIMITATIONS.

(a) TRANSFER OF FUNDS TO RUSSIA.—No funds or in-kind payments shall be transferred to any entity of the Russian Government or any Russian contractor to perform work on the International Space Station which the Russian Government pledged, at any time, to provide at its expense. This section shall not apply to the purchase or modification of the Russian built, United States owned Functional Cargo Block, known as the "FGB".

(b) CONTINGENCY PLAN FOR RUSSIAN ELEMENTS IN CRITICAL PATH.—The Administrator shall develop and deliver to Congress, within 30 days after the date of the enactment of this Act, a contingency plan for the removal or replacement of each Russian Government element of the International Space Station that lies in the Station's critical path. Such plan shall include—

(1) decision points for removing or replacing those elements if the International Space Station is to be completed by the end of the calendar year 2002;

(2) the cost of implementing each such decision; and

(3) the cost of removing or replacing a Russian Government critical path element after its decision point has passed, if—

(A) the decision at that point was not to remove or replace the Russian Government element; and

(B) the National Aeronautics and Space Administration later determines that the Russian Government will be unable to provide the critical path element in a manner to allow completion of the International Space Station by the end of calendar year 2002.

(c) MONTHLY CERTIFICATION ON RUSSIAN STATUS.—The Administrator shall certify to the Congress on the first day of each month whether or not the Russians have performed work expected of them and necessary to complete the International Space Station by the end of calendar year 2002. Such certification shall also include a statement of the Administrator's judgment concerning Russia's ability to perform work anticipated and required to complete the International Space Station by the end of 2002 before the next certification under this subsection. Each certification under this subsection shall include a judgment that the first element launch will or will not take place by October 31, 1998.

(d) DECISION ON RUSSIAN CRITICAL PATH ITEMS.—The President shall provide to Congress a decision, by August 1, 1997, on whether or not to proceed with permanent replacement of the Service Module, and each other Russian element in the critical path for completing the International Space Station by the end of calendar year 2002. The President shall certify to Congress the reasons and justification for the decision and the costs associated with the decision. Such decision shall include a judgment that the first element launch will or will not take place by October 31, 1998, and that the stage of assembly complete will or will not take place by December 31, 2002. If the President decides, after August 1, 1997, to proceed with a permanent replacement of the Service Module or any other Russian element in the critical path, the President shall certify to Congress the reasons and justification for the decision to proceed with permanent replacement, and the costs associated with that decision, including the cost difference between making such decision by August 1, 1997, and any later date at which it is made. Such certification shall include a description of the costs of removing or replacing each critical path item, and the schedule for completing the International Space Station by the end of calendar year 2002.

(e) ASTRONAUTS ON MIR.—The National Aeronautics and Space Administration shall not place another United States astronaut on board the Mir Space Station, without the Space Shuttle attached to Mir, until the Administrator certifies to Congress that the Mir Space Station meets or exceeds United States safety standards. Such certification shall be based on an independent review of the safety of the Mir Space Station.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

and

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth" in paragraph (3);

(B) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(C) by redesignating paragraphs (10) through (12) as paragraphs (14) through (16), respectively;

(D) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space substantially intact."; and

(E) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a) (3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1); and

(B) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(E) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(F) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(G) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) by inserting "or reentry" after "one launch" in subsection (a)(3);

(B) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(C) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(D) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(E) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e); and

(F) by inserting "or reentry site or a reentry" after "launch site" in subsection (e);

(13) in section 70113 (a)(1) and (d) (1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears; and

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, or operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2).

(b) ADDITIONAL AMENDMENTS.—(1) Section 70105 of title 49, United States Code, is amended—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following new paragraph:

"(2) In carrying out paragraph (1), the Secretary may establish procedures for certification of the safety of a launch vehicle, reentry vehicle, or safety system, procedure, service, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by striking "and" at the end of subsection (b)(2)(B);

(E) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(F) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(G) by inserting ", or the requirement to obtain a license," after "waive a requirement" in subsection (b)(3).

(2) The amendment made by paragraph (1)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by paragraph (1)(F) of this subsection.

(3) Section 70102(5) of title 49, United States Code, is amended—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B), as so redesignated by subparagraph (A) of this paragraph, the following new subparagraph:

"(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;".

(4) Section 70103(b) of title 49, United States Code, is amended—

(A) in the subsection heading, as amended by subsection (a)(4)(A) of this section, by inserting "AND STATE SPONSORED SPACEPORTS" after "AND REENTRIES"; and

(B) in paragraph (1), by inserting "and State sponsored spaceports" after "private sector".

(5) Section 70105(a)(1) of title 49, United States Code, as amended by subsection (b)(1) of this section, is amended by inserting at the end the following: "The Secretary shall submit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 7 days after any occurrence when a license is not issued within the deadline established by this subsection.".

(6) Section 70111 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by inserting after subparagraph (B) the following:

"The Secretary shall establish criteria and procedures for determining the priority of competing requests from the private sector and State governments for property and services under this section.";

(B) by striking "actual costs" in subsection (b)(1) and inserting in lieu thereof "additive costs only"; and

(C) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.".

(7) Section 70112 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by inserting "launch, reentry, or site operator" after "(1) When a";

(B) in subsection (b)(1), by inserting "launch, reentry, or site operator" after "(1) A"; and

(C) in subsection (f), by inserting "launch, reentry, or site operator" after "carried out under a".

(c) REGULATIONS.—(1) Chapter 701 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 70120. Regulations

"The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch and reentry; and

"(4) procedures for the application of government indemnification.".

(2) The table of sections for such chapter 701 is amended by adding after the item relating to section 70119 the following new item:

"70120. Regulations.".

(d) REPORT TO CONGRESS.—(1) Chapter 701 of title 49, United States Code, is further amended by adding at the end the following new section:

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(2) The table of sections for such chapter 701 is further amended by adding after the item relating to section 70120, as added by subsection (c)(2) of this section, the following new item:

"70121. Report to Congress.".

SEC. 302. REQUIREMENT FOR INDEPENDENT COST ANALYSIS.

Before any funds may be obligated for Phase C of a project that is projected to cost more than $75,000,000 in total project costs, the Chief Financial Officer for the National Aeronautics and Space Administration shall conduct an independent cost analysis of such project and shall report the results to Congress. In developing cost accounting and reporting standards for carrying out this section, the Chief Financial Officer shall, to the extent practicable and consistent with other laws, solicit the advice of expertise outside of the National Aeronautics and Space Administration.

SEC. 303. OFFICE OF SPACE COMMERCE.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an Office of Space Commerce.

(b) FUNCTIONS.—The Office of Space Commerce shall be the principal unit for the coordination of space-related issues, programs, and initiatives within the Department of Commerce. The Office's primary responsibilities shall include—

(1) promoting commercial provider investment in space activities by collecting, analyzing, and disseminating information on space markets, and conducting workshops and seminars to increase awareness of commercial space opportunities;

(2) assisting United States commercial providers in their efforts to do business with the United States Government, and acting as an industry advocate within the executive branch to ensure that the Federal Government meets its space-related requirement, to the fullest extent feasible, with commercially available space goods and services;

(3) ensuring that the United States Government does not compete with United States commercial providers in the provision of space hardware and services otherwise available from United States commercial providers;

(4) promoting the export of space-related goods and services;

(5) representing the Department of Commerce in the development of United States policies and in negotiations with foreign countries to ensure free and fair trade internationally in the area of space commerce; and

(6) seeking the removal of legal, policy, and institutional impediments to space commerce.

SEC. 304. NATIONAL AERONAUTICS AND SPACE ACT OF 1958 AMENDMENTS.

(a) DECLARATION OF POLICY AND PURPOSE.—Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(1) by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively; and

(2) in subsection (g), as so redesignated by paragraph (1) of this subsection, by striking "(f), and (g)" and inserting in lieu thereof "and (f)".

(b) REPORTS TO THE CONGRESS.—Section 206(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476(a)) is amended—

(1) by striking "January" and inserting in lieu thereof "May"; and

(2) by striking "calendar" and inserting in lieu thereof "fiscal".

(c) DISCLOSURE OF TECHNICAL DATA.—Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended—

(1) in subsection (a)(C), by inserting "or (c)" after "subsection (b)"; and

(2) by adding at the end the following new subsection:

"(c)(1) The Administrator may, and at the request of a private sector entity shall, delay for a period of at least one day, but not to exceed 5 years, the unrestricted public disclosure of technical data in the possession of, or under the control of, the Administration that has been generated in the performance of experimental, developmental, or research activities or programs funded jointly by the Administration and such private sector entity.

"(2) Within 1 year after the date of the enactment of the Civilian Space Authorization Act, Fiscal Years 1998 and 1999, the Administrator shall issue regulations to carry out this subsection. Paragraph (1) shall not take effect until such regulations are issued.

"(3) Regulations issued pursuant to paragraph (2) shall include—

"(A) guidelines for a determination of whether data is technical data within the meaning of this subsection;

"(B) provisions to ensure that technical data is available for dissemination within the United States to United States persons and entities in furtherance of the objective of maintaining leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base; and

"(C) a specification of the period or periods for which the delay in unrestricted public disclosure of technical data is to apply to various categories of such data, and the restrictions on disclosure of such data during such period or periods, including a requirement that the maximum 5-year protection under this subsection shall not be provided unless at least 50 percent of the funding for the activities or programs is provided by the private sector.

"(4) The Administrator shall annually report to the Congress all determinations made under paragraph (1).

"(5) For purposes of this subsection, the term 'technical data' means any recorded information, including computer software, that is or may be directly applicable to the design, engineering, development, production, manufacture, or operation of products or processes that may have significant value in maintaining leadership or competitiveness in civil and governmental aeronautical and space activities by the United States industrial base.".

SEC. 305. PROCUREMENT.

(a) PROCUREMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program of expedited technology procurement for the purpose of demonstrating how innovative technology concepts can rapidly be brought to bear upon space missions of the National Aeronautics and Space Administration.

(2) PROCEDURES AND EVALUATION.—The Administrator shall establish procedures for actively seeking from persons outside the National Aeronautics and Space Administration innovative technology concepts, relating to the provision of space hardware, technology, or service to the National Aeronautics and Space Administration.

(3) SPECIAL AUTHORITY.—In order to carry out this subsection the Administrator shall recruit and hire for limited term appointments persons from outside the National Aeronautics and Space Administration with special expertise and experience related to the innovative technology concepts with respect to which procurements are made under this subsection.

(4) SUNSET.—This subsection shall cease to be effective 10 years after the date of its enactment.

(b) TECHNOLOGY PROCUREMENT INITIATIVE.—

(1) IN GENERAL.—The Administrator shall coordinate National Aeronautics and Space Administration resources in the areas of procurement, commercial programs, and advanced technology in order to—

(A) fairly assess and procure commercially available technology from the marketplace in the most efficient manner practicable;

(B) achieve a continuous pattern of integrating advanced technology from the commercial sector, and from Federal sources outside the National Aeronautics and Space Administration, into the missions and programs of the National Aeronautics and Space Administration;

(C) incorporate private sector buying and bidding procedures, including fixed price contracts, into procurements; and

(D) provide incentives for cost-plus contractors of the National Aeronautics and Space Administration to integrate commercially available technology in subsystem contracts on a fixed-price basis.

(2) CERTIFICATION.—Upon solicitation of any procurement for space hardware, technology, or services that are not commercially available, the Administrator shall certify, by publication of a notice and opportunity to comment in the Commerce Business Daily, for each such procurement action, that no functional equivalent, commercially, available space hardware, technology, or service exists and that no commercial method of procurement is available.

SEC. 306. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—The Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire, where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space science data shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning the elemental and mineralogical resources of the moon and the planets, Earth environmental data obtained through remote sensing observations, and solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 307. COMMERCIAL SPACE GOODS AND SERVICES.

The National Aeronautics and Space Administration shall purchase commercially available space goods and services to the fullest extent feasible, and shall not conduct activities that preclude or deter commercial space activities except for reasons of national security or public safety. A space good or service shall be deemed commercially available if it is offered by a United States commercial provider, or if it could be supplied by a United States commercial provider in response to a Government procurement request. For purposes of this section, a purchase is feasible if it meets mission requirements in a cost-effective manner.

SEC. 308. ACQUISITION OF EARTH SCIENCE DATA.

(a) ACQUISITION.—For purposes of meeting Government goals for Mission to Planet Earth, the Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that such data, services, distribution, and applications shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) STUDY.—(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Mission to Planet Earth can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers.

(2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aeronautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Mission to Planet Earth;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and

(C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

SEC. 309. EOSDIS REPORT.

Not later than 90 days after the date of the enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which contains—

(1) an analysis of the scientific capabilities, costs, and schedule of the Earth Observing System Data and Information System (EOSDIS);

(2) an identification and analysis of the threats to the success of the EOSDIS Core System; and

(3) a plan and cost estimates for resolving the threats identified under paragraph (2) to the

EOSDIS Core System before the launch of the Earth Observing System satellite known as PM-1.

SEC. 310. SHUTTLE PRIVATIZATION.

(a) POLICY AND PREPARATION.—The Administrator shall prepare for an orderly transition from the Federal operation, or Federal management of contracted operation, of space transportation systems to the Federal purchase of commercial space transportation services for all nonemergency launch requirements, including human, cargo, and mixed payloads. In those preparations, the Administrator shall take into account the need for short-term economies, as well as the goal of restoring the National Aeronautics and Space Administration's research focus and its mandate to promote the fullest possible commercial use of space. As part of those preparations, the Administrator shall plan for the potential privatization of the Space Shuttle program. Such plan shall keep safety and cost effectiveness as high priorities. Nothing in this section shall prohibit the National Aeronautics and Space Administration from studying, designing, developing, or funding upgrades or modifications essential to the safe and economical operation of the Space Shuttle fleet.

(b) FEASIBILITY STUDY.—The Administrator shall conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that the National Aeronautics and Space Administration transition toward the privatization of the Space Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Space Shuttle is privatized, including—

(1) whether the Federal Government or the Space Shuttle contractor should own the Space Shuttle orbiters and ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Space Shuttle operations, and, if so, under what terms and conditions;

(3) whether payloads other than National Aeronautics and Space Administration payloads should be allowed to be launched on the Space Shuttle, how missions will be prioritized, and who will decide which mission flies and when;

(4) whether commercial payloads should be allowed to be launched on the Space Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(5) whether National Aeronautics and Space Administration and other Federal Government payloads should have priority over non-Federal payloads in the Space Shuttle launch assignments, and what policies should be developed to prioritize among payloads generally;

(6) whether the public interest requires that certain Space Shuttle functions continue to be performed by the Federal Government; and

(7) how much cost savings, if any, will be generated by privatization of the Space Shuttle.

(c) REPORT TO CONGRESS.—Within 60 days after the date of the enactment of this Act, the National Aeronautics and Space Administration shall complete the study required under subsection (b) and shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

SEC. 311. LAUNCH VOUCHER DEMONSTRATION PROGRAM AMENDMENTS.

Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is amended—

(1) in subsection (a)—

(A) by striking "the Office of Commercial Programs within"; and

(B) by striking "Such program shall not be effective after September 30, 1995.";

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 312. USE OF ABANDONED AND UNDERUTILIZED BUILDINGS, GROUNDS, AND FACILITIES.

(a) IN GENERAL.—In meeting the needs of the National Aeronautics and Space Administration for additional facilities, the Administrator, whenever feasible, shall select abandoned and underutilized buildings, grounds, and facilities in depressed communities that can be converted to National Aeronautics and Space Administration facilities at a reasonable cost, as determined by the Administrator.

(b) DEFINITIONS.—For purposes of this section, the term "depressed communities" means rural and urban communities that are relatively depressed, in terms of age of housing, extent of poverty, growth of per capita income, extent of unemployment, job lag, or surplus labor.

SEC. 313. COST EFFECTIVENESS CALCULATIONS.

In calculating the cost effectiveness of the cost of the National Aeronautics and Space Administration engaging in an activity as compared to a commercial provider, the Administrator shall compare the cost of the National Aeronautics and Space Administration engaging in the activity using full cost accounting principles with the price the commercial provider will charge for such activity.

SEC. 314. FOREIGN CONTRACT LIMITATION.

The National Aeronautics and Space Administration shall not enter into any agreement or contract with a foreign government that grants the foreign government the right to recover profit in the event that the agreement or contract is terminated.

SEC. 315. AUTHORITY TO REDUCE OR SUSPEND CONTRACT PAYMENTS BASED ON SUBSTANTIAL EVIDENCE OF FRAUD.

Section 2307(h)(8) of title 10, United States Code, is amended by striking "and (4)" and inserting in lieu thereof "(4), and (6)".

SEC. 316. NEXT GENERATION INTERNET.

None of the funds authorized by this Act, or any other Act enacted before the date of the enactment of this Act, may be used for the Next Generation Internet. Notwithstanding the previous sentence, funds may be used for the continuation of programs and activities that were funded and carried out during fiscal year 1997.

SEC. 317. LIMITATIONS.

(a) PROHIBITION OF LOBBYING ACTIVITIES.—None of the funds authorized by this Act and the amendments made by this Act shall be available for any activity whose purpose is to influence legislation pending before the Congress, except that this subsection shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

(b) LIMITATION ON APPROPRIATIONS.—No sums are authorized to be appropriated to the Administrator for fiscal years 1998 and 1999 for the activities for which sums are authorized by this Act and the amendments made by this Act, unless such sums are specifically authorized to be appropriated by this Act or the amendments made by this Act.

(c) ELIGIBILITY FOR AWARDS.—

(1) IN GENERAL.—The Administrator shall exclude from consideration for grant agreements made by the National Aeronautics and Space Administration after fiscal year 1997 any person who received funds, other than those described in paragraph (2), appropriated for a fiscal year after fiscal year 1997, under a grant agreement from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this subsection shall be effective for a period of 5 years after the person receives such Federal funds.

(2) EXCEPTION.—Paragraph (1) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

(3) DEFINITION.—For purposes of this subsection, the term "grant agreement" means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

SEC. 318. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized by this Act or the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) NOTICE OF REORGANIZATION.—The Administrator shall provide notice to the Committees on Science and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 15 days before any major reorganization of any program, project, or activity of the National Aeronautics and Space Administration.

SEC. 319. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the National Aeronautics and Space Administration should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the National Aeronautics and Space Administration posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the National Aeronautics and Space Administration is unable to correct in time.

SEC. 320. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

The National Aeronautics and Space Administration is authorized to participate in the National Oceanic Partnership Program established by the National Oceanic Partnership Act (Public Law 104-201).

SEC. 321. NATIONAL SCIENCE FOUNDATION ANTARCTIC PROGRAM.

If the Administrator determines that excess capacity is available on the Tracking Data Relay Satellite System (TDRSS), the Administrator shall give strong consideration to meeting the needs of the National Science Foundation Antarctic Program.

SEC. 322. BUY AMERICAN.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated pursuant to this Act or the amendments made by this Act may be expended by an entity unless the entity agrees

that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act or the amendments made by this Act, it is the sense of Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(c) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act or the amendments made by this Act, the Administrator shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

The CHAIRMAN pro tempore. Are there any amendments?

AMENDMENT NO. 6 OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. ROHRABACHER:

Page 31, lines 13 through 18, strike section 130.

Page 2, in the table of contents, strike the item relating to section 130.

Page 62, lines 11 and 12, strike "moon and the planets" and insert "moon, asteroids, planets and their moons, and comets".

Page 75, after line 12, insert the following new section:

SEC. 323. UNITARY WIND TUNNEL PLAN ACT OF 1949 AMENDMENTS.

The Unitary Wind Tunnel Plan Act of 1949 is amended—

(1) in section 101 (50 U.S.C. 511) by striking "transsonic and supersonic" and inserting in lieu thereof "transsonic, supersonic, and hypersonic"; and

(2) in section 103 (50 U.S.C. 513)—

(A) by striking "laboratories" in subsection (a) and inserting in lieu thereof "laboratories and centers";

(B) by striking "supersonic" in subsection (a) and inserting in lieu thereof "transsonic, supersonic, and hypersonic", and

(C) by striking "laboratory" in subsection (c) and inserting in lieu thereof "facility".

Page 3, in the table of contents, after the item relating to section 322, insert the following:

"Sec. 323. Unitary Wind Tunnel Plan Act of 1949 amendments.".

Mr. ROHRABACHER. Mr. Chairman, this bipartisan manager's amendment was crafted from 3 distinct minor amendments which have no impact on the funding level of this bill and simply fine-tune or add policy provisions.

The first part authored by the distinguished ranking member of the Subcommittee on Space and Aeronautics strikes a policy provision relating to freezing Space Station management responsibilities we had included in the bill at the time of the markup, and I support the language of the gentleman from Alabama [Mr. CRAMER]. The second part is a clarification of the range of scientific data we are recommending that NASA purchase from the commercial data providers.

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There has been a lot of interest in comets and asteroids as of late. We did not want to leave them out.

Now the third part is an amendment by the gentleman from Tennessee [Mr. HILLEARY] which was offered successfully in the last Congress to perfect the language of the Unitary Wind Tunnel Plan Act of 1949 based on technological progress that has been made since 1949, and I support Mr. HILLEARY's language.

As further evidence of how bipartisan our work in this bill has been, each of these parts were agreed to by the minority side, and so I combined them into a single amendment to save our time here on the floor.

Mr. Chairman, I yield to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise in support of the en bloc amendment. I will have an amendment to the amendment, but I do support the manager's amendment.

Mr. ROHRABACHER. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. CRAMER TO THE AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. CRAMER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAMER to the amendment offered by Mr. ROHRABACHER: At the end of the amendment add the following:

Page 14, line 14, strike "$915,100,000" and insert "$920,100,000".

Page 16, strike lines 4 through 14 and insert the following:

(iii) 152,800,000 shall be for Commercial Technology, of which $5,000,000 shall be for business facilitators, selected by the National Aeronautics and Space Administration from among candidates who receive at least 25 percent of their resources from non-Federal sources; and

Page 16, line 17, strike "$832,400,000" and insert "$837,400,000".

Page 17, strike lines 8 through 17 and insert the following:

(iii) $160,400,000 shall be for Commercial Technology, of which $5,000,000 shall be for business facilitators, selected by the National Aeronautics and Space Administration from among candidates who receive at least 25 percent of their resources from non-Federal sources.

Mr. CRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. (Mr. QUINN). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. CRAMER. Mr. Chairman, the intent of my amendment is to insure the provisions in the bill dealing with the business incubators. Business incubators create a level playing field for the future establishment of additional incubators. I commend my colleague from Florida [Mr. WELDON], who was here earlier on his interest and support for the future establishment of these incubators and his willingness to work with me on this issue.

Mr. Chairman, my amendment enjoys bipartisan support, and I urge its adoption.

Mr. WELDON of Florida. Mr. Chairman, I rise in support of the change in language offered by the gentleman from Alabama. I have no intention to oppose this amendment, but accept this amendment. I am happy to craft the language in such a way that business incubators would be available at other NASA centers that currently are not taking advantage of this, I think an excellent tool to make sure that the technology that is developed within NASA is better transmitted out into the economy where it can accrue to the benefit of all the people of the United States.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Florida. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the majority accepts this amendment, and I would like to point out that it does have an offset so there is no increase to the authorization of the bill. There is an offset from another section of the bill. I think that is the way we ought to be considering these amendments, and I would encourage the committee to adopt the amendment to the amendment.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I also accept the amendment, and I commend both the gentleman from Alabama [Mr. CRAMER] and the gentleman from Florida [Mr. WELDON] for the work they have put in to insuring as we did work in this committee that we did not overlook the very positive program that both of them believe in, and because of their hard work and diligence we have managed to fund this and make sure that it will continue through the years.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the NASA space, the civilian space authorization bill, and I commend my colleagues on the Committee on Science and on the Subcommittee on Space and Aeronautics for reporting out a well balanced and reasonable authorization bill that will maintain our Nation's leadership in using space science to enhance research and development efforts. The bill continues our commitment to the space station while improving congressional oversight of international cooperation in the construction of the space station. It moves forward in the orderly process of promoting the commercial use of both the space station and the space shuttle. The Office of Space Commerce will provide a secure location to advance this sort of activity.

I am particularly impressed by the progress being made in the mission to Planet Earth. This project will pay

major dividends for the understanding of our global environment. Through the Earth observing system that is part of this project, NASA will be able to collect very important data on the level of ozone in the atmosphere, the impact of climate changes on long-term weather patterns and the relationship between gases in the atmosphere and productive land use management. This project is providing the scientific foundation for sustainable development on our planet. I look forward to continued progress on experiments with microgravity, one of the areas of concentration of the NASA Lewis Research Center outside of the city of Cleveland in my district.

Mr. Chairman, the international space station will provide an ongoing environment for advanced microgravity experiments. Those experiments will help our country conduct the basic research needed to treat diseases, develop new generations of plastics and better understand the growth of plants.

Mr. Chairman, it is with pride that I urge my colleagues to support the civilian space authorization bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. CRAMER] to the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER], as amended.

The amendment, as amended, was agreed to.

Mr. PASCRELL. Mr. Chairman, I move to strike the last word.

Mr. Speaker, I rise today in support of H.R. 1275. As we debate the authorization of the civilian space program I wish to remind my colleagues of the importance of investing in NASA. Throughout the years there have been calls to abandon our commitment to technological advancement by shifting funding from these important programs. Having the foresight to resist these efforts and invest in our future has yielded critical advancements in areas such as medicine, public safety, consumer products and transportation. These spinoffs include safety improvements for our school buses, water purification systems for our homes, emergency rescue cutters to free accident victims and enhanced alarm systems for our prison guards, the elderly and the disabled.

Particularly in health care, the advancements due to NASA have been remarkable. We have developed a digital imaging breast biopsy system which greatly improves the treatment and cost of surgical biopsies. As we work together in this body to help women with breast cancer, this nonsurgical tool has been and will continue to be an essential part of safer, less traumatic treatment. And instead of having to use the less accurate, more painful thermometer, Mr. Chairman, I hold in my hand, thanks to NASA technology, we now have this ear thermometer which would not have been developed if it had not been for NASA. It has helped physicians improve the treatment of our own children.

I bring this device to the floor today to highlight the importance of this vote. This thermometer is an excellent example of the advancement that has developed directly from our investing in NASA.

This is an important vote today. It is easy to say we are for improving people's day-to-day lives, but it is another actually to vote in a manner that achieves that goal. While we all are conscious of reining in our spending practices by cutting programs that have failed to meet the objective, I rise today to say that NASA is not one of these programs, and I urge my colleagues to support the space program and the space station and to allow us to continue developing critical technology that improves our lives.

The CHAIRMAN pro tempore. Are there any other amendments?

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROEMER: Page 9, line 12, through page 10, line 6, amend paragraph (1) to read as follows:

(1) For the Space Station, for expenses necessary to terminate the program, for fiscal year 1998, $500,000,000.

Page 13, line 9, strike "308(a)" and insert in lieu thereof "208(a)".

Page 14, line 3, strike "308(a)" and insert in lieu thereof "208(a)".

Page 21, line 6, strike "$13,881,800,000" and insert in lieu thereof "$12,260,500,000".

Page 21, line 7, strike "$13,925,800,000" and insert in lieu thereof "$11,816,600,000".

Page 21, line 18, strike "303" and insert in lieu thereof "203".

Page 23, line 21, strike "(1) through (4)" and insert in lieu thereof "(2) through (4)".

Page 30, line 6, strike "308(a)" and insert in lieu thereof "208(a)".

Page 31, line 13 through 18, strike section 130.

Page 31, line 19, through page 40, line 3, strike title II.

Page 40, line 4, redesignate title II as title II.

Page 40, line 6, through page 74, line 17, redesignate sections 301 through 322 as sections 201 through 222, respectively.

Page 2, in the table of contents, strike the item relating to section 130.

Page 2, in the table of contents, strike the item relating to title II.

Page 3, in the table of contents, redesignate title III and sections 301 through 322, as title II and sections 201 through 222, respectively.

Mr. ROEMER. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 1 hour, with time equally controlled by myself and the chairman of the committee, Mr. SENSENBRENNER.

The CHAIRMAN pro tempore. Is the gentleman talking about this amendment and all other amendments?

Mr. ROEMER. I am talking about this particular amendment, No. 5.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. SENSENBRENNER. Mr. Chairman, reserving the right to object, and I do not intend to object, let me clarify that of the time allocated to the proponents of the amendment, does the gentleman from Indiana intend to yield 15 minutes of that time to Republican supporters of the amendment, and then I would yield 15 minutes of my time to Democratic opponents of the amendment?

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Indiana.

Mr. ROEMER. I would be happy, Mr. Chairman, to try to divide that equally. The sponsor of my amendment is a Republican, and it is a bipartisan amendment. However, I would just ask my colleague to be flexible with that 15 minutes, depending upon people's schedule, how many Republicans and Democrats we have at any given time to speak on the floor.

So I will try my best to have it equally divided to answer the gentleman's question.

Mr. SENSENBRENNER. Mr. Chairman, further reserving the right to object, the gentleman from Indiana [Mr. ROEMER] is saying yes and no, and I guess I will accept it for getting on with it.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman from Indiana is talking about amendment No. 5 and all amendments thereto; is that correct?

Mr. ROEMER. That is correct, on amendment No. 5.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana [Mr. ROEMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] will each control 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an important amendment for many reasons. We have all had the opportunity in a recent election to tell our constituents how devoted we are to balancing the budget, and we have all sat back home in our individual districts in Indiana and Iowa and California and in Maine,

across this great country, that we would come here and work in a bipartisan way and make the tough but fair decisions to balance the budget. This, Mr. Chairman, is a tough decision, and it is fair based upon how poorly this program has performed over the last decade.

Now let me give my colleagues the example, Mr. Chairman. Back in 1984 this program started out with an $8 billion price tag. Now in 1997 it will cost our American taxpayer about $100 billion to finish this space station, $8 billion to $100 billion. That is according to the General Accounting Office which is a nonpartisan group of scholars and thinkers here that gets us research, $8 billion to $100 billion.

That would be like an example that maybe I can relate better to, and some of our constituents, but because we are talking about real big bucks there, what about if someone as a constituent went to buy a car in 1984 and that car dealer said, "Mr. ROEMER, we're going to sell you a car for $8,000, and it's going to have power windows, it's going to have air-conditioning, it's going to have a tape player, it's going to have all these marvelous things; $8,000, sir," and I bought it. Now in 1997 he comes back and says, "Hey, I'm sorry. That car is going to cost you $100,000, and I am going to take the tape player away, you are going to have to suffer through the summertime, no air-conditioning and no power windows."

That is kind of what the space station has become. It has gone from 8 scientific missions to 1 or 1½. It has gone from $8 billion to $100 billion, and now the United States taxpayer has sent almost a billion dollars to Russia because now they are 11 months late in their participation in the space station, which is jacking up the cost for the American taxpayer.

This is not a good deal for us. This is a terrible deal for the taxpayer. There is $100 billion, and more and more of it going over to Russia.

Now you are going to hear, Mr. Chairman, you are going to hear this argument on the floor: Well, we have already spent $18 billion, let us finish the job.

How do we justify 18 billion bad dollars down a rat hole and then another $70 billion later on? That is what this is going to cost; $18 billion down a rat hole and then $70 billion into a black hole in space. That is not a good expenditure of taxpayer dollars.

We are also going to hear about science. We are going to hear that this thing is going to discover the cure to AIDS and cancer and help school buses. There is not anything that that space station cannot do.

Let me read for my colleagues a couple quotes from some scientists, not politicians. Let me read some quotes from some scientists. This is a quote from a Dr. Robert Park, who is a professor of physics at the University of Maryland. He says:

> The greatest single obstacle to continued exploration of space is the international space station. Cost overruns and construction have been accommodated by postponing what little science is planned for the station.

□ 1345

There is one scientist. Another scientist, Dr. Bloomfield, professor of physics at the University of Virginia, he says:

> The space station is an insatiable sponge for resources, drawing the life and vitality from many exciting and sorely needed NASA programs.

So that the space station is cannibalizing other very, very good programs that are returning good science to us.

He also states:

> We are in danger of building a fantastically expensive scientific laboratory in which no important scientific work will be accomplished.

Another scientist. There seems to be some consensus of opinion from some of these scientists. This is Dr. Ursula Goodenough, professor of biological sciences. She says:

> I am an avid fan of space science and would be very happy to see the international space stations appropriations go instead to aerospace contracts and NASA jobs geared to the further exploration of the universe, planets and earth.

Mr. Chairman, we all talk about balancing this budget. We all talk about doing things in a bipartisan way. I offer this in a bipartisan way with the gentleman from Iowa [Mr. GANSKE], a Republican.

We all talk about not having cost overruns in our programs. This is a $92 billion cost overrun, and the scientists are saying, we do not want it. Fund NIH where we are trying to do things on breast cancer and Parkinson's and AIDS, and where two out of four of those grants are not adequately funded.

Let us solve some of these problems right here, right now, but not cut off space. I am very supportive of the shuttle and the Hubble and the great observatories and the faster and cheaper and better programs, and Galileo.

All of these things can give us a presence until we find out what exactly our manned presence should be in the next century. Should it continue to be commercial rockets and the shuttle and some other kind of a space station that works, or should we ultimately and finally say, enough is enough to the American taxpayer.

We are not getting good science out of this project, we are not getting a return on the dollar. Let us have the courage to take on the special interests, to kill this program, and move forward and give the men and the women of NASA who are doing tremendously good work with 85 percent of this NASA program and budget, let us give them the opportunity to continue to do that good work in these other areas I have outlined.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that 15 minutes of my time be yielded to the gentleman from Alabama [Mr. CRAMER], and that he have the right to yield portions of that time as he sees fit.

The CHAIRMAN pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Indiana [Mr. ROEMER] gets high marks for persistence. This is his annual amendment to kill the space station. However, he gets equally low marks for his logic, because he wants the American taxpayer to back away from the $18 billion that we have already spent on the space station, leaving this house half built, breaking the international commitments that we have made to our closest allies in Western Europe, Canada, and Japan, and stiffing them the $6 billion that they have spent out of their own funds because he says, "the space station has no useful purpose."

The space station does have a useful purpose, and it also means that if we build the space station, we will continue to have the United States of America be the leadership in manned space flight for the next generation.

If the gentleman from Indiana [Mr. ROEMER] has his way, not only will America be out of manned space flight, but so will the rest of the world, because these programs are so expensive they have to be internationalized, and no other country will be able to pick that up. I think that would be a shame. I think it would be shocking. I think it would demonstrate that the United States of America is an unreliable partner because of the commitments that we have asked other countries to undertake in building the space station, and which all but Russia have done so and have spent their own taxpayers' money.

If the gentleman from Indiana has his way, it is going to be a long time before other countries rely on the United States of America in any international undertaking, whether it be in space or in science or anything else, because if we back away from the space station now, we will have burned them so significantly with funds on their own.

The gentleman from Indiana says that if we kill the space station, we can save a great big bunch of money. I have

heard the figure $75 billion touted about. I do not know whether that is accurate or not. But that includes the cost of maintaining and operating the shuttles that will be used for assembling the space station. That cost is going to be there.

If the space station is not set up, we are going to be using the shuttles for other things and expending the taxpayers' money for it, so very little of that $75 billion is going to be saved, because we will be utilizing the equipment that the taxpayers have already bought and paid for, as well as paying for other types of microgravity research.

The fact is that the cost of completing and operating the space station between now and the year 2012 will be about $23 billion for the United States, about $10 billion to finish the station by the year 2002, and about $13 billion to operate it for the next 10 years. That includes the cost of the shuttle flights and the research in this total.

We hear the argument all along that it is no-good science. Now, I have heard a lot of testimony of scientists in my time on the Committee on Science, and many of the scientists approach the Committee on Science saying the science that I am doing is good science and we should give more money to it.

The science that other scientists are doing I think should be a much lower priority, and I really do not care if you defund it. So we can trot out scientists on each side of the argument. But let me quote what some of the scientists told the subcommittee of the gentleman from California [Mr. ROHRABACHER] a couple of weeks ago.

Dr. Larry DeLucas of the University of Alabama at Birmingham testified that shuttle-based microgravity research has led to ongoing clinical tests in drugs for the flu, stroke, and open heart surgery. The shuttle's maximum duration mission is 16 days. The station is permanent, and we can do much more research on that.

Dr. Jane Milburn Jessup of Harvard Medical School is researching colon cancer through space research. Dr. Lelund Chung of the University of Virginia is studying prostate cancer through space research. Dr. Reggie Edgerton of the Division of Life Sciences at UCLA testified that microgravity research is already aiding studies of neurocell regeneration, which can help us cure or ameliorate spinal cord and other nerve injuries.

I am married to a person who has a spinal cord injury, who is paralyzed from the waist down. It is a terrible disability for anybody to have that kind of an injury. If we can figure out some way, any way, to help regenerate those neurocells following a spinal cord injury, the grief, the trauma, the pain that someone like my wife has to endure can be solved for future people who might have those kinds of injuries.

Now, we can accelerate this research by having a permanent space station rather than having 16-day shuttle missions. We are building a space station that allows this research to be done 365 days a year. Mr. Chairman, I hope the Members do not back out on their previous commitments to the space station. I hope the Members, once again, reject the Roemer amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CRAMER. Mr. Chairman, I yield myself such time as I may consume and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the annual Roemer amendment. It is springtime and he is persistent, and here we are again. Since I came to the Congress in 1991, we have had more than 25 votes on this issue in the committee and on the floor, so needless to say, most Members of this House, except for our new Members of the 105th have had an opportunity to hear these arguments that we make every year.

I want to echo some of the comments that the gentleman from Wisconsin [Mr. SENSENBRENNER], the chairman of the Committee on Science, has made already. It is just too late for us to turn our back on this program. It would not be the responsible thing to do. I do want to make a few additional points for the freshman Members that may not have heard this debate for the first time.

The international space station is not a new program. Even as we debate today, there are thousands of engineers and scientists that are hard at work in the United States, Canada, Japan, Europe, and Russia, building and testing the space station systems and components. More than 160,000 pounds of hardware have already been built in the United States alone. The program is scheduled to start launching the first segments of the space station next year.

This amendment, this annual Roemer amendment, would waste all of that hard work and the taxpayer dollars that have been spent today on the station program. That is not the fiscally responsible thing to do.

The space station makes good sense. I wish that other Members had the opportunity to hear the testimony of the world class scientists that appeared before the committee this year and other years, as well regarding the advances that they believe will be responsible or will be possible from the research conducted in the weightless environment of space, research that cannot be conducted here on earth.

These potential advances span the spectrum from increased understanding, development of exotic new materials that could revolutionize any terrestrial processes, and the design of new pharmaceutical processes as well.

The space station, as has been pointed out, is an international cooperative venture including cost-sharing by more than a dozen nations. If we turn our back now, our lawyers will inherit a possible nightmare that we will have to sort through.

Now, there is one issue that my colleague, Mr. ROEMER, will bring up over and over, and that is the concern in the delays over the Russian involvement, the Russian funding of its space station contributions. I believe, under the leadership of the chairman and ranking member of the full committee, that this bill contains tough provisions to make it clear to Russia that we expect them to honor their commitments to this program.

Mr. Chairman, this is a bad amendment. I urge Members to defeat it.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. GANSKE], a cosponsor of the amendment and a Republican.

Mr. GANSKE. Mr. Chairman, I rise in support of the Roemer-Ganske amendment. On Tuesday, the gentleman from Indiana [Mr. ROEMER] and I were successful in our efforts to save the taxpayers $6 million when NASA decided to end the Bion Program. This was a small down payment on the $75 billion we could save by cutting the space station.

Space station supporters say that since we have already spent $18 billion, well, we cannot stop now. I disagree. Now is the time to stop throwing money into this black hole. It would be doing our allies a favor if we killed this jobs program now.

Despite repeated promises, the Russians still have not paid for critical space station components. As a result, the first space station launch will be delayed at least 11 months. The space station is already $300 million over budget for the next 2 years. Congress imposed a spending cap which lost its teeth before we even launched the first piece of hardware.

The sad truth is that if we do not cancel the space station, it will continue to be the Pac-Man that eats up everything else at the expense of important other NASA programs.

I believe the Federal Government does have a role in space research, but in this case, the space station will ultimately, in my opinion, impede our knowledge of outer space because it will eat up those funds for unmanned space exploration.

□ 1400

Let me explain briefly why I think the Space Station will not fulfill the scientific goals first envisioned.

First, if we look at the physical sciences, years of research on the shuttle and on Mir have produced no evidence that microgravity offers any advantage for processing or manufacturing. The few experiments in areas

such as turbulence and fluid phase transitions that might benefit from a microgravity environment could be conducted on unmanned platforms or the shuttle.

Turning to life sciences, experiments on the shuttle and Mir have established that diverse organisms can go through their full life cycle in a microgravity environment. This fundamental question of whether important biological processes can occur in microgravity has already been answered. The answer is yes.

It is also no surprise that vestibular organs, bones, muscles of larger mammals, are affected by microgravity. We have known that as physicians for years. If we have a bedridden patient, they lose bone mass. There is no evidence, however, that studies of these effects have contributed to an understanding of how organisms function on Earth.

The possibility of growing better protein crystals is often cited as a benefit of the space station. Such crystals are important in determining the molecular structure of proteins. However, years of growing protein crystals on the shuttle and on Mir have made no discernible contribution to determining any new structure.

Mr. Chairman, we came to Washington to make some tough choices. I hope my colleagues will agree with me that it is necessary to ground this orbiting erector set. One of my heroes when I was an undergraduate at the University of Iowa was Dr. James van Allen, discoverer of the van Allen radiation belt.

I talked to him yesterday about the space station. He pointed out that the principal scientific achievements of NASA have been accomplished by unmanned exploration: Galileo, Viking, Pioneer, Voyager, the Mariner missions. The exceptions have been Hubble, which has needed some maintenance, and Apollo. But he also pointed out that the Russians brought back rock samples from the Moon with unmanned missions.

Dr. van Allen told me, "The Space Station purposes are grossly incommensurate with the cost." I think that says it all.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Chairman, like other fiscal conservatives, I find this amendment attractive on its surface. But a closer look reveals and has repeatedly shown that the scientific criticism is not valid and the cost savings are exaggerated. Killing the space station at this point in its life would ultimately prove to be penny wise yet pound foolish.

We all know that major leaps in mankind's progress require a major commitment over a long time and an ability to look beyond the immediate horizon. The international space station is no different. This is a fiscally responsible investment which will produce real benefits for American families.

While the space station is long-term in nature, the return on our investment is significant and very well worth making: in new drugs to battle our most stubborn diseases; in knowledge to protect and preserve our earth's environment; and in the potential for a vast number of new jobs for the 21st century resulting from the commercial opportunities in space.

We cannot afford not to continue this investment, this critical investment in America's future. I respectfully urge my colleagues to defeat this amendment and continue our historic support for the space station.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin, Mr. TOM BARRETT.

Mr. BARRETT of Wisconsin. Mr. Chairman, I want to applaud my colleagues, the gentleman from Iowa [Mr. GANSKE] and particularly the gentleman from Indiana [Mr. ROEMER] for consistently fighting this very lonely fight.

This fight reminds me a lot of that childhood story of the emperor has no clothes, because the gentleman from Indiana in particular has stood by the side of this parade now for many, many years.

When this parade first started, this emperor space station was walking down the street and we were told that this is cloaked in fiscal responsibility, that this is a responsible project, it costs $8 billion. Of course, we saw that it was not a real cloak. The emperor's space station was wearing no clothes at that time.

So what happened several years later? We were told this is the greatest thing since the polio vaccine, that we are going to solve all the problems in the world with this. Again, the emperor space station has no clothes.

Then they had a close call 2 years ago, 215, 214. Now we had all sorts of new bells and whistles and balloons that went in this parade, and we were told this is going to help us reach world peace because we are going to work with the Russians, and by working with the Russians we are going to really move forward.

What have we seen in the last month? The emperor space station has no clothes. Those opponents of the space station have a tough fight. There are powerful forces that create jobs in parts of the country for people because of the space station.

I have no problem with the jobs program. But if all this is a jobs program, let us call it that and let us spread the money out evenly throughout the United States. But the time has come for Congress to say that the emperor space station has no clothes, and to end this economic folly.

Mr. CRAMER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BROWN], the ranking member of the full committee.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, sometimes I have difficulty determining what the value of these perennial debates are, but being an eternal optimist, I am going to assume that they will result in some enlightenment on those who have not been sufficiently informed.

Mr. Chairman, the history is subject to a lot of debate. It is true that, as with every project I have been associated with over the last 30-odd years, there are misrepresentations made, not intentionally but necessarily, as to what the final cost and parameters of any project like this will be, and the space station is one of those.

We are finding out some interesting things. It represents some breakthroughs which we did not anticipate. for example, the inclusion of the Russians was never planned, it was serendipitous, and it may have some beneficial effects. There were over-promises made about what the research would do, but nobody questions the fact that there will be valuable results from the research.

The most important thing is that if Members really believe that there is any potential for human activity in space, it has to have a space station. There is no other way that you can gain the experience both of creating the infrastructure to house these humans, and for humans to get the experience which will allow them to function in a near-Earth orbit, far-Earth orbit, on the surface of the Moon, on Mars, anywhere else. We have to start. Killing the space station kills the start. We would say, in effect, we abdicate any future for humans in space.

The opponents have made some statements about costs, that it is going to cost I think the figure is $75 million more to complete the space station. The life of the space station is anticipated to be between 10 to 15 years, so what we are saying is that it is going to cost more than twice as much per year after the space station is built as it is costing for the space station to be built. That is ridiculous on its surface.

Mr. Chairman, the fact of the matter is that we are going to build this space station for something fairly close to the original cost, and then we are going to maintain it for 10 to 15 years. We are going to fly the shuttle to it several times a year. We are going to put new supplies, new experiments, new other things up there.

All of this costs money, it is not going to cost $75 billion. But even if it does cost a fraction of that, half that, say, this is not building the space station, this is operating the space station for the purpose of which it was built:

namely, to expand human abilities to live and work and produce new knowledge for the whole of human culture in the environment of space, which will be a landmark in the history of the human culture, and it is worth the effort we are making today.

Mr. ROEMER. Mr. Chairman, I gladly yield 2 minutes to the distinguished gentleman from Michigan [Mr. CAMP], a Republican.

Mr. CAMP. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank him for his efforts in this matter.

Mr. Chairman, I rise in support of the Roemer-Ganske amendment. This November NASA will begin to launch $94 billion into orbit. This is a project plagued with delays, cost overruns, and unfulfilled promises. Russian assurances have fallen short, and the American taxpayer has been left holding the bag. We cannot afford this big budget action adventure in space.

The space station, originally budgeted at $8 billion, has become the black hole of the taxes of hardworking Americans. It threatens our ability to balance the budget. Space is infinite, but our resources are not.

It is time for Congress to get its spending priorities in order, and admit that we cannot afford a $94 billion playground in space. We need to get serious about what the core functions of the Federal Government are while we continue to run budget deficits year after year, and have a national debt of almost $5.3 trillion.

We are all amazed by the promises of space exploration and the excitement the space station generates. We should be amazed at the $200,000 every child in this country owes in interest on the national debt during their lifetime. Congress should invest this $94 billion in our children's future.

Mr. CRAMER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. HALL], my very dedicated colleague.

Mr. HALL of Texas. Mr. Chairman, once again we have a bad amendment offered by some good guys.

Mr. Chairman, opponents of the space station say the station is going to cost the American taxpayers $94 billion by 2012, as Chairman BROWN has pointed out and Chairman SENSENBRENNER has pointed out, rather than the $8 billion for construction in 1994. What are the facts?

I think we need to go back over the facts one more time. The redesign over the past couple of years has lowered the expected cost. That is a hard, cold fact. The project is two-thirds completed. It is a matter of math. The $94 billion figure is an overstatement because it adds projected operating expenses to the cost of construction.

As the chairman has noted in a Dear Colleague that we received some time ago, American taxpayers have invested about $18 billion in the international space station, and we are more than halfway through building the hardware we need. We will spend another $10 billion to complete the space station in 2002, and $13 billion to operate it until the year 2012, Mr. Chairman, for a total of $23 billion.

This year's funding, like last year's funding, cost each American an average of 2.2 cents a day. If Members want to hear a real outcry from young America, cancel this space station. The cost of terminating the project would be far greater, thousands of jobs would be lost, and the potential for creating new high-technology industry would absolutely be lost. We also would lose the hope of curing diseases and making other scientific discoveries that could save or enhance the lives of everyone in our planet. We lose far more by terminating the space station than we do by keeping it.

Opponents of that have stated that reliance on unstable partners like Russia could jeopardize the project. Of course, I have concern over their instability. But the truth is that Russian participation is still needed. It is very important, because of the expertise they bring to the project.

The Committee on Science unanimously adopted an amendment offered by the chairman and the ranking member, the gentleman from California, [GEORGE BROWN], that addresses the Russian problem. Their amendment prohibits U.S. funding of work pledged to be done by Russia. It requires NASA to develop a contingency plan should the Russians default, and requires the President to make a decision by August 1, 1997, on whether to proceed with permanent replacements for the Russian items. I think they have covered the waterfront. It also directs NASA to certify that Mir meets U.S. safety standards.

We also have to consider that we have other partners who have committed billions of dollars toward the space station: Japan, Canada, and the European community. This is an international station. Russia is only one of the many worthy participants.

The opponents also argue that the project has questionable scientific merit. What are the facts? Biomedical and materials research in space has very impressive results. The ability to provide a permanent manned platform for conducting research has the potential for far greater rewards.

We need to remember that we must pursue our dream. We must pursue this dream. Out of splitting the atom we got the MRI and the CAT scan. We have to keep going forward. We have to keep our heads up. We have to keep following the star that might really be a deliverance to all of the people, to young and old, future and present.

The space station began as a dream, but through hard work, careful planning and the financial commitment of many nations, it became a reality. The space station represents an investment in our future.

As we prepare for the many challenges of the 21st century and continue to battle many of the problems of the 20th century, the space station represents the combined hopes of many nations that we will find some of the answers beyond the Earth's atmosphere.

□ 1415

I urge my colleagues to oppose the Roemer-Ganske amendment and support the international space station.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN], a pretty good basketball player, a Republican.

Mr. CHRISTENSEN. Mr. Chairman, I thank the gentleman from Indiana for yielding me the time.

This has been a lonely fight for my friend, and it has gradually caught support. I am looking forward to helping him on this fight.

I am hearing a lot of the arguments that remind me of the arguments that I watched on TV a few years ago about the superconducting super collider, the great atom smasher down in Texas. If that was the boondoggle of the 1980's, this program must be the boondoggle of the 1990's. Because by every cost estimate that I have seen, it is way over budget. It is not getting the promised results that we had hoped for.

We can disagree on whether it is $94 billion or $74 billion or $84 billion, but it has run over cost. It is a year behind. The Russians have not lived up to their part of the deal, but we keep funding it because it is two-thirds done.

I am not sure that is the best philosophy and the best argument to be selling here. Maybe there is some other issue we could be talking about. The facts are, it is overdone; it is overrun. They have not lived up to the bargain.

We need to take a look at the fiscal responsibility of this Congress. We are $5.4 trillion in debt. Do we keep funding a program because it is already there, just because it is there, mainly because it is set in Florida and Texas and California? Or do we really look at some of the scientific aspects and can we accomplish those in a much more economic manner?

I really applaud the gentleman from Indiana [Mr. ROEMER] and the gentleman from Iowa [Mr. GANSKE] for putting effort into this. Maybe this year, with the help of other Members on both sides of the aisle, we can pass this bill and pass this amendment. But I do look forward to a good argument and I respect both sides.

Mr. CRAMER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN], a strong advocate for NASA and the space station.

Mr. BENTSEN. Mr. Chairman, I want to echo the comments made by my senior Member, the gentleman from Texas [Mr. HALL].

I hate to have to oppose an amendment by my good friend, the gentleman from Indiana [Mr. ROEMER], but the fact is that we have invested about $18 billion in a program which from my viewpoint appears to work. It would be one thing if we were investing funds year in and year out and showing no results to walk away from the program, but that is not what is going on here.

We are looking at a program where we are building up, where it is going to work, and it would be a grave mistake and really a bad business decision for us to walk away at this point, to break the contracts, to say that we are not going to go forward.

The gentleman from California [Mr. BROWN], the ranking Democrat, is also correct that if we are going to continue as a nation to lead the world in space exploration, we are the only ones that are going to do it, as the gentleman from Wisconsin [Mr. SENSENBRENNER] said. And if we do not do it with this, as the gentleman from California [Mr. BROWN] says, if we do not build the station, we will stop at this point and we will lose ground.

I think it would be a very serious mistake. Yes, we have spent the vast majority of the money, and we made progress. Yes, two-thirds of the hardware has been developed. Yes, there are problems with the Russians. I think having the Russians involved in this as well as all the other nations involved in this program is good foreign policy for America.

If the Russians fall out, we have contingency plans in place, but I do not think we should focus the argument solely on the Russian problem. We can take care of that if they fall out of it, but it is still incumbent upon the United States to lead.

I would encourage my colleagues to once again defeat this amendment. It is not going to balance the budget. We are fooling ourselves if we think that it is. We have to prioritize the budget and find where we can make cuts, but we have to keep the country moving forward at the same time.

I would also urge my colleagues on the subsequent amendment offered by my friend, the gentleman from Indiana [Mr. ROEMER], with regard to the agreements with the Russians, that we defeat that and pass the authorization.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in support of this amendment. Like so many Federal programs, Congress was given a low-ball figure at the first and was told in 1984 that this program would cost only $8 billion. Now the General Accounting Office, not our figures but the figures from the General Accounting Office tell us that the cost will be at least $94 billion. Some estimates of the ultimate cost when all expenses are figured in are much, much higher. James J. Kilpatrick, nationally syndicated columnist, said: This is "pure folly and that the cost itself has now gone into orbit." This project will ultimately be the most expensive single project ever funded by the Federal Government, and that is really saying something.

An editorial in the Washington Post in 1991, when the cost estimates were much lower than now, said this "The diversion of $30 billion would be a sad thing even if the Federal Government had money to burn. Money for the space station will have to be squeezed out of other research of value to society and to science, including space science."

Mr. Chairman, we do not have money to burn. We need to support this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Chairman, I rise in strong opposition to the Roemer amendment.

We have heard a number of points made repeatedly today that I would like to address, one of them being that this project somehow costs $100 or $90 billion. To say that this project costs that much money would be similar to saying that the Louisiana Purchase did not cost $14 million. It cost billions of dollars for all of those settlers to move into the West and build all those cities. Included in that figure is the cost of all the shuttle missions and all of the research that is going to be done on the space station. It is very, very unfair to make those kinds of comparisons.

We heard firsthand in our committee the tremendous amount of good quality scientific research that will be possible on the space station. We research into areas like the treatment of existing diseases, development of new technologies that can help deal with problems like spinal cord injuries and bone disease and heart disease.

I would also like to point out that there have been a number of Members who have mentioned about all these cost overruns that have occurred in the program already. The vast majority of those cost overruns were caused by this body redesigning the space station over and over and over again. Once we, the House of Representatives, stopped monkeying with it, lo and behold, NASA has been able to stay on budget and on schedule. They have done a darn good job on it.

Finally I would like to say one additional thing. I believe when Queen Isabella was approached about funding Columbus, there were those who said, no, no, no, do not do it. Each time he wanted to go back, there were people who said do not give him any more money. Likewise, during the Mercury, Gemini and Apollo Programs, I know that there were Members in this body, probably motivated by the fact that the program had absolutely no funding coming into their district, chose to oppose it and vote against it. I am sure none of those Members today would stand up and speak proudly of the fact that they were opposed to one of the greatest accomplishments in the history of American exploration.

I encourage Members to vote against ROEMER.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON], my good friend and a Cubs fan.

Mr. UPTON. Mr. Chairman, I prefer to talk about the Wolverines instead of the Cubs, I would have to say, this year.

Mr. Chairman, I rise in strong support of the Roemer-Ganske amendment. Before I was in the Congress, this Congress made the decision to go ahead with the space station; but when they made the decision to go ahead with it, I in fact worked at the Office of Management and Budget. And I remember well the argument that took place within the Office of Management and Budget in terms of what the cost was going to be. The suggested cost was about $8 billion. Then it was $12, then it was $15, now I understand we have spent $18 billion already. Three years ago I took to this floor and argued in support of this amendment, they were saying then that the cost was going to be $45 billion. I come today and it is $94 billion. No, that is not million, that is billion dollars.

I listened to the comments of the gentleman from Iowa [Mr. GANSKE] today about one of the great NASA supporters of all time, Dr. van Allen, what he had to say. It is not worth the bang for the buck. I can remember talking to some of my colleagues in the past years about how this amendment or how this space station is so important for the advancement of science. They said: FRED, go back to your districts and talk to your pharmaceutical folks, talk to some of the people there and find out what this science will do.

I did. And they came back and they said, it is not worth the bang for the buck. It is not worth it; $94 billion.

Mr. Chairman, we have heard from a lot of newspapers, and some of them have suggested that we just simply vote for the continuation of this program to keep the dream alive. Well, I have to say something, that when we see a budget increase grow from $8 billion to $94 billion, it sounds more like a nightmare, it does not sound like a dream. The Taxpayers for Common Sense, the Citizens Against Government Waste all say support the Roemer amendment. As we think about our

children and their future, the $5.5 trillion national debt, the almost $300 billion that we are going to spend on interest. We have to start making some tough choices. One of those is supporting this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. QUINN). The gentleman from Indiana [Mr. ROEMER] has 11½ minutes remaining, the gentleman from Alabama [Mr. CRAMER] has 3½ minutes remaining, and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 6 minutes remaining.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Roemer-Ganske amendment. At an estimated cost of $94 billion, this space station has become Congress's latest sacred cow. And this at a time when we are trying to balance the budget, we are cutting very important social programs and we are substantially cutting other research projects.

I rise in strong support of the Roemer-Ganske amendment to terminate space station funding. Simple put, the Space Station Program is a luxury item the United States cannot afford when the national debt exceeds $4.5 trillion.

At an estimated cost of $94 billion, the space station has become Congress' new sacred cow, at a time when we are trying to balance the budget and important social programs and other research projects are being deeply cut, it is unconscionable that once again this bill includes full funding of the space station which is already vast billions over the original estimates.

It is absolutely unconscionable that we are again including full funding for this which is already vast billions over the original estimates.

The Space Station Program is so fundamentally flawed that when President Clinton selected a new scaled-back design for the space station in 1994, the chosen design satisfied only one of the eight original design objectives. Despite the substantial redesign, scientists across the spectrum remain critical of the station because of its costs and irrelevance to real science. Many contend that the research proposed for the station could be conducted for far less money on the space shuttle, on smaller spacecraft, or through the use of satellites, with the money saved being used for projects having more scientific merit or for environmental protection, housing needs, emergency food and shelter programs, veterans programs, and deficit reduction.

This is despite the fact that continuous redefinition of the goals and designs have inflated the cost of this project more than $86 billion. The originally cost being $8 billion, with construction scheduled for 1994. Now, the Government Accounting Office estimates that it will cost the American taxpayers $94 billion to build the space station by 2012.

Taxpayers have already spent $18 billion on the space station since 1984, with few tangible results. Furthermore, with NASA's poor track record on cost-overruns, it is doubtful that NASA has any idea how much it will cost American taxpayers to maintain and operate the space station.

With reference to Mr. SENSENBRENNER's remarks which characterizes the space station as the primary source of research for medical procedures. Please, if we were to put a fraction of these billions on medical research here at home. Instead we are cutting medical research in our pressing need to balance the budget.

We need the space station $4.2 billion here on Earth. I urge my colleagues support of this important amendment.

Come back to Earth—we can't keep chattering about balancing the budget.

Threatening to take food out of the mouths of little babies—the WIC Program cutbacks, while still funding this enormous pork barrel—lets use some common sense and set our priorities so that the people will again respect this elected body and trust us to keep our word.

Now, both the gentleman from Indiana [Mr. ROEMER] and the gentleman from Iowa [Mr. GANSKE] have fully and rationally explained the alternative programs that are conducting research. They have explained the deficiencies in the space station project. They have adequately outlined the fact that the authoritative scientific community is deeply split on this project. But I would like to refer in my limited time to the gentleman from Wisconsin [Mr. SENSENBRENNER] comments and others who have referred specifically to medical research projects leaving the impression here with our colleagues that this is the only source of research funding for new medical procedures. That is not anywhere near accurate.

The gentleman from Iowa [Mr. GANSKE] spoke eloquently to that subject. But, let me put it this way. If we were to put only a fraction of those billions of dollars into the medical research here at home, we would be doing vast good for the American people. Instead, we are cutting medical research in our very pressing need to balance the budget.

That brings me to the point. Come on back down to Earth. We cannot keep chattering about balancing the budget and threatening to take food out of the mouths of little babies and cutting enormous amounts from other medical research projects when we are funding this enormous pork barrel. Let us call it what it is, pork barrel. Let us use some common sense and set our priorities so that the people will again respect this elected body and trust us to keep our promises.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. LOBIONDO].

Mr. LOBIONDO. Mr. Chairman, I rise today in strong support of the Roemer amendment to terminate funding for the international space station. In my view the space station is not a responsible use of taxpayer dollars. It was originally projected to cost $8 billion. Recent estimates put the price tag at $94 billion. The $18 billion that has been spent thus far in construction only began in 1995.

□ 1430

It is time for the taxpayers to cut their losses. Eliminating the program now will save $78 billion, four times what has been spent this far, dollars that are desperately needed for programs here at home. NASA is projecting the space station budget to be an average of 75 percent over budget from what they originally planned.

As somebody who spent over 25 years in a small business, I find that spending dollars wisely and cost efficiently is not only critical, it is essential. While I think our space program can provide significant scientific contributions to society, I do not think the space station is worth the price.

Of the eight original scientific objectives for the program, only two remain, just two out of the eight. Many of the proposed experiments can be done on unmanned satellites or aboard the space shuttle for just a fraction of the cost.

NASA now says that the primary reason to build the space station is for the sake of learning how to build a space station. In the wake of our $5 trillion national debt, I do not think we can afford to pursue a multibillion dollar endeavor of questionable scientific merit.

I hope my colleagues will make their stands for the taxpayers today and vote for the Roemer amendment, because once again, my colleagues, as we struggle with how to find sufficient dollars for education, for seniors, for our environment, this spending is critical.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida, [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I have heard some of these arguments. The problem is that this project is two-thirds complete in operation. We are not talking about something like the super collider here where we are just starting it and then we killed it. Even then there were large termination fees. Here is a project that is two-thirds complete into the operation.

Now, these folks keep talking about a $92 billion overrun. That is over 15 years. That is about $6 billion a year. This is a project that we are almost already about to see the light at the end of the tunnel, so I think we are too far along to consider terminating it. It may be $92 billion in overruns, however it turns out to be a very small number over the 15-year period.

This amendment lost by 65 percent last year in the 104th Congress. I will bet that the gentleman from Indiana [Mr. ROEMER] and everybody else in the House would love to win an election by

65 percent. The majority of people here in Congress believe this space program is a good project, yet time and time again the gentleman, Mr. ROEMER brings this up. I will bet on the last day of the project the gentleman will bring up the fact that we have to shut this program down. Another thing is that we will not be able to shut this project down because of our agreements with many, many countries.

I would point out to those that keep coming to the House floor and saying this is fiscally irresponsible to push this space station, I went back to the vote on the National Endowment for the Arts on June 22, 1994, and almost without an exception these people could not even reduce and do away with a program that was $160 million. We are not talking billions, we are talking about millions.

In fact, my good friend from Indiana did not agree to substantially reduce or shut down the National Endowment for the Arts.

Another point I want to make is that we are talking about a program that only is $23 billion to completion. So we are not talking about billions and billions of dollars, but $10 billion for completing it and $13 billion for the operation for the next 10 years.

My friends, there is no parallel between this and the super collider. We have promises we have made to other countries. We must keep them.

Author J.G. Holland said, "Heaven is not reached by a single bound. But we build the ladder by which we rise." We are currently building that ladder, in a series of bounds. What we find at the top of this ladder will inspire future generations to imagine, explore, and actually see, first hand, the unprecedented advances that the space station will provide. We must retain funding for the space station. I urge a "no" vote on the Roemer-Ganske amendment.

Mr. CRAMER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. SHERMAN] who is a new Member and new to this debate.

Mr. SHERMAN. Mr. Chairman, my colleagues, when Columbus set sail, about two-thirds of the way into the journey a group of his sailors rose up and urged that the project be defunded. America would not be here today if that amendment had not been defeated.

There are many reasons to support the International Space Station. It is a way for us to build bridges with other countries, including former adversaries. It is a way to build our own aerospace industry, which is already our leading source of exports.

I wish my colleagues had been able to join me at Rocketdyne, where I saw how they are developing batteries for a space station that could well lead to breakthroughs in an electric automobile.

We will find cures for diseases, perhaps AIDS, cancer, influenza, or diabetes. Most important of all, humankind belongs in space. The space station is our stepping stone to where we belong in the next millennia.

Mr. ROEMER. Mr. Chairman, I would inquire how much time is left.

The CHAIRMAN pro tempore (Mr. QUINN). The gentleman from Indiana [Mr. ROEMER] has 7½ minutes remaining; the gentleman from Wisconsin [Mr. SENSENBRENNER] has 4 minutes remaining; and the gentleman from Alabama [Mr. CRAMER] has 2½ minutes remaining.

Mr. ROEMER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just say, first of all, that I am delighted that we have been able to, for the most part, conduct this debate in a very civil and bipartisan way. A number of Republicans and Democrats have stood up on both sides of this great Chamber and disagreed on whether or not to support this particular amendment. I would urge my colleagues to support this amendment to cancel the space station.

A number of groups that are devoted day in and day out to deficit reduction support this legislation, and let me read a few of them. This amendment is endorsed by the Taxpayers for Common Sense, the National Taxpayers Union, the Citizens Against Government Waste, the Concord Coalition, and the Citizens for a Sound Economy.

Now, Mr. Chairman, those groups do not go around, I do not think, saying we need to spend more money here and protect these jobs, and we need to do a little more money here, and would you please vote for this increase across the board here. Their mission, which is a difficult one in America today, is to try to get to a balanced budget.

We all come here, Democrats and Republicans alike, and we all talk about balancing that budget, but then we delay some of the tough votes. I think this is an appropriate vote to signal to our Democratic leadership at the White House and here in the House and over in the other body and to the Republican leadership in this body and over in the other body that we want these talks to balance the budget to continue; that we are willing to make tough choices over here; and that we can anticipate even tougher choices coming at us in the next few weeks.

There are going to be proposals to cut different defense projects. There have already been proposals in the Committee on Appropriations to cut the WIC Program for women, infants and children. We will see proposals to cut back on different discretionary spending programs for education.

This is the choice, ladies and gentlemen. We can vote to cut a program like this that is $75 to $80 billion over budget; that has gone from eight scientific missions to 1 or 1½; that is not performing the way that the taxpayers deserve; and that is going to send off almost $1 billion to Russia of our taxpayers money under the guise of the NASA budget.

Now, I think that is not such a tough choice. I think we should send a signal to the American people and the respective Democratic and Republican leadership that we are serious about deficit reduction; that we will make tough choices; and that we are going to make fair choices, and they are not going to be choices that hurt children and hurt families and hurt those that need a safety net.

In conclusion, Mr. Chairman, yes, it is my annual fight; yes, when the springtime comes and the cherry blossoms are out, I offer this amendment, and I do it because I believe it is the right thing to do. I believe that for the taxpayer, for the United States of America, and for good science we should kill this project. I would encourage my colleagues to take a good look at this, to read their DSG, which really outlines the arguments on both sides, and vote a tough vote that will upset some special interest groups. It might take away some support, but it will resonate with the American people that we need to balance the budget.

Mr. Chairman, I yield back the balance of my time.

Mr. CRAMER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. KUCINICH], also a new voice in this debate.

Mr. KUCINICH. Mr. Chairman, skepticism is a healthy expression in a democracy, but skepticism should never permit us to stop reaching upward in establishing new frontiers. In the words of the poet, "A man's reach should exceed his grasp or what is a heaven for?"

We should not let skepticism blind the American willingness and ability to envision a better future. In the words of the prophet Isaiah, "Without vision, a people perish." We, in this Congress, are called upon to see the health care benefits, to see the medical technology benefits, to see the industrial technology benefits which comes from the space program.

We are called to join with those visionaries who have given this country the ability to adapt to an undreamed of future. America's destiny is to keep reaching onward and upward.

Mr. CRAMER. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a very dedicated member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I say to the gentleman from Indiana [Mr. ROEMER] he is a good friend, and I recognize that this is an annual rite of passage. But let me join with my colleague by saying that the American people do have vision and we will not perish.

NASA and the space station represents success, success in efficiency,

success in downsizing effectively, success in outsourcing and giving opportunity to commercial enterprises, success in microgravity research, where finite results help in our pharmaceutical industry, success in health research that helps diabetes, AIDS, health disease, and cancer.

Finally, might I say, what will we do with $500 million to destroy the program? That is down a hole and we will never find it. Let us save the space station, for it is for our children, it is for our future, it is for our health, it is the right thing to do. The space station deserves our further consideration. It is a vision for tomorrow. It is a vision of America.

The CHAIRMAN pro tempore (Mr. QUINN). The gentleman from Alabama [Mr. CRAMER] has 30 seconds remaining.

Mr. CRAMER. Mr. Chairman, I yield the final 30 seconds to the gentlewoman from Texas, [Ms. EDDIE BERNICE JOHNSON].

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, let me simply say that my colleague here is right when he wants to stop a lot of the spending. I fully agree, but I do not want to stop it where there is a penny-wise and a pound-foolish.

We have gone into the unknown in research, all of our existence as a nation. This research has brought us many answers. If we do not explore the unknown, we cannot remain on the cutting edge, we cannot continue to battle diseases that plague us and the viruses and all.

We also know that we can commercialize many of the products and offer jobs and give good income for our country. I fully support the space station.

The CHAIRMAN pro tempore. The time of the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, has expired. All time that was yielded to the gentleman from Alabama [Mr. CRAMER] has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield the final 4 minutes to the gentleman from California [Mr. ROHRABACHER], the subcommittee chairman.

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. SENSENBRENNER] for yielding the time.

Mr. Chairman, first of all, I would like to congratulate the gentleman from Indiana [Mr. ROEMER], who again has drawn our attention to the fact that we should not rubberstamp any major programs or even minor programs that go through the House of Representatives. His diligence over the years has prevented us from becoming complacent. His diligence has ensured that we have tried to make this program, to the very best of our ability, to be as cost effective and as efficiently run as possible, if nothing else, to detour the criticism of the gentleman from Indiana [Mr. ROEMER] that comes up on the floor every year.

To that regard, he is serving a useful function, and this is a very fine example of bipartisan democracy at work in the sense there are people on both sides of the issues and we have people who are very sincere in what they are trying to say.

I may have agreed with the gentleman from Indiana [Mr. ROEMER] had we been making this decision 10 years ago or 12 years ago. I may have agreed with him perhaps even 8 years ago, perhaps. But today we have gone down the road, and to turn back now after this long journey has only begun but as we are halfway down the road to the destination would be irresponsible on our part and would actually cause more waste than what the gentleman from Indiana [Mr. ROEMER] would save by cutting the program.

The gentleman from Indiana suggests that he supports the shuttle program, but many of the savings that he talks about that would be saved as part of slicing off the Space Station Program were achieved only by the fact that the space shuttle would not be used to put the space station up; the shuttle would be used for other things, as well.

□ 1445

We will not make savings in that area until we develop a new and less costly way of putting people and payloads into space, which is something we are trying to do in our budget.

The international space station will be a magnificent technological achievement of historic proportions. It will be of significance, historical significance. People will remember that it was this generation that stepped forward and placed our first frontier post, manned frontier post into the next frontier. It is from that post, it is from this penetration of that great barrier, that great frontier that now is beyond us and confronts us, that will be the moment that people will say, this is where the conquest of space began for this generation.

Whatever great leap forward mankind has ever taken has always had a situation where there were people who, No. 1, said that we should not go, or, No. 2, this is not the right method, or as the program proceeded, they were doubters about the program and doubters about the specific goal that the people had in mind.

Six years ago, I sat on this floor and we came very close to canceling the C–17 project. The C–17, which is a magnificent aircraft, an aircraft that now ensures that the United States is the No. 1 aerospace power in the world, that we can project our forces anywhere in the world now, and people all over the world look to us in awe of this great achievement.

The C–17 almost went down for the same arguments that the gentleman from Indiana [Mr. ROEMER] is now making against the space station. After that vote, my father called me. My father was a pioneer in air transport aviation. He flew DC–3's all over the Pacific in World War II. He reminded me that every time they had come up with a new aircraft, there had been cost overruns, there had been kinks in the program, and there had been problems that were unforeseen and they had to overcome those problems and overcome the naysayers in order to make those achievements.

We must overcome our doubters to make this next great achievement for mankind, the great achievement that will be in the history books, a manned space station. This is our job.

The CHAIRMAN pro tempore (Mr. QUINN). All time having expired, the question is on the amendment offered by the gentleman from Indiana [Mr. ROEMER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 112, noes 305, not voting 16, as follows:

[Roll No. 90]

AYES—112

Barrett (WI)	Hinojosa	Obey
Bass	Holden	Olver
Bereuter	Inglis	Owens
Berry	Kanjorski	Pallone
Bilbray	Kaptur	Paul
Blagojevich	Kennedy (MA)	Paxon
Blumenauer	Kind (WI)	Pelosi
Brown (OH)	Kingston	Peterson (MN)
Camp	Kleczka	Pomeroy
Carson	Klug	Portman
Chabot	LaFalce	Poshard
Christensen	Largent	Ramstad
Coble	Latham	Rivers
Coburn	Lazio	Roemer
Conyers	Leach	Roukema
Costello	Levin	Sanders
Coyne	Lipinski	Sanford
Cunningham	LoBiondo	Schaffer, Bob
Danner	Lowey	Schumer
DeFazio	Luther	Shays
Delahunt	Maloney (NY)	Shuster
Dellums	Markey	Slaughter
Dingell	McCarthy (MO)	Smith (MI)
Doyle	McHugh	Solomon
Duncan	McInnis	Stark
Ensign	McNulty	Strickland
Evans	Meehan	Stupak
Fattah	Miller (CA)	Tierney
Foglietta	Minge	Upton
Frank (MA)	Mink	Vento
Franks (NJ)	Moakley	Visclosky
Ganske	Molinari	Wamp
Goode	Moran (VA)	Watkins
Goodlatte	Myrick	Watts (OK)
Gutierrez	Nadler	Waxman
Hamilton	Neumann	Woolsey
Herger	Nussle	
Hilleary	Oberstar	

NOES—305

Abercrombie	Barcia	Blunt
Ackerman	Barr	Boehlert
Aderholt	Barrett (NE)	Boehner
Allen	Bartlett	Bonilla
Archer	Barton	Bonior
Armey	Bateman	Bono
Bachus	Becerra	Borski
Baesler	Bentsen	Boswell
Baker	Berman	Boucher
Baldacci	Bilirakis	Boyd
Ballenger	Bliley	Brady

Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chambliss
Chenoweth
Clay
Clayton
Clyburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Ewing
Farr
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hill
Hilliard
Hinchey
Hobson
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Klink
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
Lofgren
Lucas
Maloney (CT)
Manton
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McIntosh
McIntyre
McKeon
McKinney
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mollohan
Moran (KS)
Morella
Murtha
Neal
Nethercutt
Ney
Northup
Norwood
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Payne
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Turner
Walsh
Waters
Watt (NC)
Weldon (FL)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Andrews
Bishop
Clement
Cubin
Furse
Hefner
Hoekstra
Manzullo
Porter
Schiff
Smith (OR)
Tanner
Towns
Velázquez
Weldon (PA)
Yates

□ 1509

The Clerk announced the following pair:

On this vote:

Ms. Velázquez for, with Mr. Towns against.

Mr. SKAGGS and Mr. SALMON changed their vote from "aye" to "no."

Messrs. OWENS, SHUSTER, SCHUMER, and DELLUMS 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. HINOJOSA. Mr. Chairman, today on rollcall vote No. 90 I was recorded as voting "yes." I meant to cast a "no" vote. I oppose eliminating funding for the space station. This is a project which has my wholehearted support.

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROEMER:

Page 40, after line 3, insert the following new section:

SEC. 206. CANCELLATION OF RUSSIAN PARTNERSHIP.

Not later than 90 days after the date of the enactment of this Act, the Administrator shall terminate all contracts and other agreements with the Russian Government necessary to remove the Russian Government as a partner in the International Space Station program. The National Aeronautics and Space Administration shall not enter into a new partnership with the Russian Government relating to the International Space Station. Nothing in this section shall prevent the National Aeronautics and Space Administration from accepting participation by the Russian Government or Russian entities on a commercial basis as provided in section 202. Nothing in this section shall prevent the National Aeronautics and Space Administration from purchasing elements of the International Space Station directly from Russian contractors.

Page 2, in the table of contents, after the item relating to section 205, insert the following:

"Sec. 206. Cancellation of Russian partnership.".

Mr. ROEMER. Mr. Chairman, this amendment is very, very simple. All it does is to cancel out the Russian participation in the international space station.

Mr. Chairman, this amendment is simple and concise. It simply says that the Russians have not fulfilled their obligation under the contract of an international space station and, therefore, we should cancel the Russians out of this participation.

□ 1515

Simply put, in the amendment it says: However, nothing in this section shall prevent NASA from accepting participation from the Russian Government or Russian entities on a commercial basis as provided in section 202. That means they could be a tenant. They could add on something to the international space station.

Mr. Chairman, they are 11 months behind in fulfilling their fiduciary responsibility to the American taxpayer and to NASA to build the service module. The service module would keep the rest of the space station up, yet they have not built it, so the American taxpayer is going to assume the costs.

Now, there is a great line in the movie "Jerry McGuire," and it is exchanged between the Academy Award winner, Cuba Gooding, and Tom Cruise. And he yells at the top of his lungs to Tom Cruise: Show me the money. He is yelling over and over, show me the money.

This relationship that we have between NASA and the United States could best be termed, throw me some money. Throw me money, American taxpayer, to the Russian space agency.

Let me go through some of the expenditures that the NASA budget is now throwing toward Russia. Let me remind the Members of the body that this is not the foreign aid bill that we are dealing with today, this is the NASA bill. Yet, in this bill and through the last several years with the Russians being our partner, we have paid them $463 million to rent Mir, and our distinguished chairman said earlier that that is not a very safe space station at this point, with a leak.

We have spent $215 million of U.S. taxpayer money on the service module, which is now 11 months late. We are taking $200 million out of the shuttle program and creating a new line item called the Russian cooperation program. We will probably send a couple hundred million more. That is close to $1 billion, Mr. Chairman, $1 billion of NASA money going to the Russians.

Now, if they were on time and on schedule and helping us in an international way, in a scientific manner complete the space station on time, I would say, let us go, let us have the participation.

The gentleman from Wisconsin [Mr. SENSENBRENNER] has tried to tighten up the accounting practices and put a better accountability into the bill, but if we cannot pay, and as Reuters, the news center says, the Russians are probably not going to have the money to pay; those accounting practices and principles do not do any good.

So I would really urge this body to even go further than the gentleman from Wisconsin [Mr. SENSENBRENNER] has gone in this bill with his language and really try to get the Russians to live up to their responsibility.

I will not call for a rollcall vote on this amendment, Mr. Chairman. I think this body has determined that they want to proceed with the space station with the last vote. But I would hope that this body would go beyond what the gentleman from Wisconsin [Mr. SENSENBRENNER] has done in this bill and at some point say to the Russians if they are not reliable partners, if they are not living up to their fiduciary responsibility of the contract, then we eliminate them.

It cannot just be foreign policy or goodwill. This is $1 billion in American taxpayer money being taken out of good projects in NASA to go to the Russian space agency. That is not wise, prudent science; that is not fair to our taxpayers. I would offer this amendment if I thought it had a good chance to pass. Based on the last vote, I am smart enough to know that it would not pass.

I will continue to fight the space station and try to get accountability in this account. I think the distinguished chairman from Wisconsin should go farther than he has done in this bill language, which I supported in committee. And I hope that the Russians, if they continue to be as unreliable as they have been, that the White House and the legislative body would come together and ask them to be removed from this partnership.

This is not an anti-Russian measure, Mr. Chairman. I think we should have a good, close engagement with the Russians, but we should not have foreign aid in the NASA bill.

Mr. Chairman, I will ask unanimous consent to withdraw the amendment, but first the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER] may like to comment on this.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think this amendment can be appropriately dubbed the dumb like a fox amendment, because if it is passed and the Russians are kicked out now, that will result in a huge unanticipated cost that will bust the $2.1 billion cap that we have had, and then the gentleman from Indiana will come back and say, I told you so, there is a cost overrun, and we ought to pass my amendment to kill the space station to begin with.

So I do not think that we should pass this amendment, even though I have probably been the most severe critic of the Russian participation in this program in the entire Congress.

The problem, Mr. Chairman, is not the Russian technicians or the Russian manufacturers, it is the Russian Government and not making the payments to their contractors and subcontractors to do the work on those elements of the space station that the Russians agreed to build.

I certainly hope that Russia will clean up its act and live up to its international obligations, because this is the first test of whether the new Russia will do so; and so far, the Russians have flopped. They have broken promise after promise after promise made to me, made to the gentleman from California [Mr. LEWIS], who is the subcommittee chairman; made to the Vice President of the United States, made to the NASA administrator, and made to the President of the United States.

The problem, as I see it, is the fact that when this problem started to fester, the Clinton administration trusted the Russians to live up to their promises; and after they broke one promise after the other, the Clinton administration was not willing to admit that it made a mistake.

The provisions that we have in this bill are designed to make the Clinton administration reach timely decisions so that we do not have to spend an undue amount of extra money to replace what the Russians do not appear with, should that happen.

There is a provision in this bill that specifically prohibits NASA from paying the Russians to construct replacements for what the Russians promise to pay for in the original agreement. There are reporting requirements monthly so that NASA has to say in public whether Russia is completing its agreement or not. There is a deadline of August 1 for the President of the United States to make a certification of whether we go ahead with Russia included in this project.

To sum up, the decision to include the Russians and the details on the inclusion of the Russians were made not by the Congress but by the Clinton administration. If it does not work out the way they advertised, then they are the ones that ought to admit that they made a mistake. This bill forces them to make a decision on that question one way or the other. If the decision is to disengage the Russians, the President of the United States will have to tell us that and the President of the United States will then have to tell us how much it will cost to make up for what the Russians were supposed to have done, and the Clinton administration relied on them, and their reliance was in error.

Mr. CRAMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, very quickly, since my colleague from Indiana [Mr. ROEMER] says that he will withdraw this amendment, I want to take this time to once again congratulate the chairman of the committee, the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from California [Mr. BROWN] for making sure that this Russian issue was settled within the committee and facing off with the administration, because H.R. 1275 does contain a number of tough provisions regarding the Russian participation in the Space Station Program.

Cooperation with the Russian Government does offer many benefits to this country in terms of the space program. However, that cooperation has to be based on each party living up to its commitments. The space station provisions in this bill send a strong signal to Russia that we expect them to deliver on their promises. The provisions also direct NASA and the administration to prepare credible contingency plans in case the Russian contributions are further delayed.

So I think we have accomplished what my colleague would set out to accomplish by this amendment. I am opposed to the amendment.

Mr. ROEMER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. Under the 5-minute rule, the gentleman's time expired.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I appreciate the kindness of the gentleman from California [Mr. LEWIS]. I would only say that I did vote for the Sensenbrenner and Brown language in committee, which does establish some accounting and some different monitoring mechanisms and does try to establish a structure to make the Russians more accountable for the rest of their participation.

I would hasten to add that I hope that, if the administration certifies in August that they still think that the Russians should be a participant, then we might visit this as a Congress again if the Russians are still not performing up to the tasks that are outlined under the agreements to pay for certain things on time, which if they do not, delays the rest of the schedule and increases the cost of the space station, that Congress would have a discussion with the administration and potentially revisit this issue again.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I first would like to indicate that I very much appreciate on the one hand the gentleman suggesting that the amendment is going to be withdrawn; but on the other hand, I think it is very valuable that the gentleman brought this matter up in this fashion, for it is important that the House be aware of these problems and it is important that the committee be responsive to these concerns.

There is little doubt in my mind's eye that having this international cooperative effort go forward positively is extremely valuable to everybody involved. Indeed, the foreign policy implications are obvious to anybody who would look. But in turn, as these difficulties have arisen relative to Russia's commitment, it is vital that the committee be responsive and make sure that we have mechanisms for judging the progress in the months

ahead. So I am very appreciative of the work that the committee has done.

I would be happy to yield further to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I appreciate the kind words of the gentleman. I just hope that we are not doing too little too late. That the Russians, if they are going to be genuine partners, that they pay their bills on time, that they genuinely perform the services that they are contracted under, and I would hope, and I have confidence in the gentleman from California [Mr. LEWIS], and the Committee on Appropriations and the gentleman from Wisconsin on the authorizing committee, that if it continues to slip like it has been slipping, that we really hold them to task and revisit this entire issue.

I would ask unanimous consent to withdraw the amendment at the appropriate time, given the fine assurances that I have from the gentleman from California and the concern expressed from the gentleman from Wisconsin.

Mr. LEWIS of California. Mr. Chairman, just by way of closing comment, let me say that I have long appreciated the gentleman's involvement in this issue. Who knows, with the progress we are making here, my colleague may one day support space station, and I would appreciate that as well.

Mr. ROEMER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Are there further amendments?

□ 1530

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment Offered by Ms. JACKSON-LEE of Texas:

Page 31, strike lines 8 through 12 and insert the following:

SEC. 129. INTERNATIONAL SPACE UNIVERSITY.

Funds appropriated pursuant to this Act may be used by the National Aeronautics and Space Administration to pay the tuition expenses of any National Aeronautics and Space Administration employee attending programs of the International Space University held in the United States. Funds appropriated pursuant to this Act may not be used to pay tuition costs of the National Aeronautics and Space Administration employees attending programs of the International Space University outside of the United States.

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, first let me thank the chairman of the Committee on Science for his cooperation and his staff's cooperation, along with the ranking member, the gentleman from California [Mr. BROWN], and the staff that worked with my office on an issue that has been consistently an important part of my commitment to science. That is the issue of education.

Mr. Chairman, this amendment involves the support of the International Space University, but as well, it recognizes the value that it has to our own NASA employees.

We have already acknowledged that the NASA employees are both dutiful, certainly, and dedicated to the idea of science and research. The International Space University was founded in 1987 in Cambridge, MA, as an international institution of higher learning dedicated to the development of outer space for peaceful purposes through multicultural and multidisciplinary education and research programs. Frankly, it is a diplomatic way to say that space belongs to all of us, but we must do it in a cooperative way.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, it is my understanding that the gentlewoman's amendment prohibits NASA from paying tuition for employees' courses at the International Space University for programs outside the United States, but allows for NASA to pay tuition and fees for programs within the United States.

I ask the gentlewoman, is my impression correct?

Ms. JACKSON-LEE of Texas. Mr. Chairman, the gentleman is in fact correct on that.

Mr. SENSENBRENNER. With that explanation, Mr. Chairman, let me say that I support the amendment and I do hope it is adopted.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I appreciate that clarification of the gentleman. I think with that clarification, it will still be of great assistance to the training of our NASA employees.

Might I say in closing two points: NASA has been involved with ISU since 1988 with the signing of a memorandum of understanding. In fact, we will have the International Space University housed in Houston, TX, this summer. It travels throughout the United States and the world. I look forward to it going to many of our jurisdictions and being of value.

Mr. Chairman, I quote for the RECORD from a letter from J. Wayne Littles, director of the NASA's Marshall Space Flight Center, who indicates that NASA is very supportive of the International Space University. It is part of the agency's training.

. . . ISU provides a unique opportunity for NASA employees to interact with others in an international setting. In an expanding global economy and at a time when space and aeronautics activities are increasingly international in scope, this training is extremely valuable for NASA employees.

Mr. Chairman, I include for the RECORD the letter from J. Wayne Littles.

The letter referred to is as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, DC, April 24, 1997.

Hon. SHEILA JACKSON-LEE,
U.S. House of Representatives,
Washington, DC.

DEAR MS. JACKSON-LEE: It is my understanding that you plan to introduce an amendment to H.R. 1275, the Civilian Space Authorization Act, Fiscal Years 1998 and 1999, concerning Sec. 129, International Space University Limitation.

NASA is very supportive of International Space University (ISU). As part of the agency's training program, ISU provides a unique opportunity for NASA employees to interact with others in an international setting. In an expanding global economy and at a time when space and aeronautics activities are increasingly international in scope, this training is extremely valuable for NASA employees.

Past participants have rated ISU as a very high quality training experience. In addition to an excellent curriculum, ISU has afforded participants an opportunity to learn from other space agencies and multinational organizations, especially in areas such as strategic business practices, technical strengths and weaknesses, and cultural traditions in the workplace.

The realities of limited Government funding for space activities worldwide require NASA to be a skilled international player. We believe that participation in ISU helps NASA maintain its leadership position in the world space community. Current and future NASA personnel must be able to participate effectively in this community, and ISU provides an excellent venue for developmental opportunities for the NASA workforce. The international perspective gained by NASA staff who participate in ISU programs will contribute strongly to the success of NASA's mission.

We appreciate your work on behalf of this unique institution.

Sincerely,

J. WAYNE LITTLES,
Director, NASA Marshall Space Flight Center.

Mr. Chairman, I ask my colleagues to support this amendment.

Mr. CRAMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to rise in support of this amendment. I admire my colleague, the gentlewoman from Texas. She is certainly a tireless advocate for NASA, for space station, for all of NASA's issues. I congratulate the chairman for supporting this amendment. I, too, believe that ISU is a useful, innovative approach. It is educating the young people who will lead the international space ventures of the future.

I also, in endorsing the International Space University, want to endorse, as the gentlewoman read, the letter from my director of Marshall Space Flight Center, Dr. Wayne Littles.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment dealing with essential NASA employees.

The Clerk read as follows:

Amendment offered by Ms. Jackson-Lee of Texas:

Page 75, after line 12, insert the following new section:

"SEC. 323. TREATMENT OF EMPLOYEES IN CASE OF LAPSE OF APPROPRIATIONS.

In any case in which the Congress fails to make appropriations for the National Aeronautics and Space Administration for a fiscal year in advance of the fiscal year, every employee of the National Aeronautics and Space Administration shall be considered as essential."

Page 3, in the table of contents, after the item relating to section 322, insert the following:

"Sec. 323. Treatment of employees in case of lapse of appropriations."

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support and offer this amendment in order, frankly, to save money.

We have determined in the last Government furlough, which none of us certainly would have welcomed, and certainly do not welcome that in the future, that in actuality we lost money. There were millions and millions of dollars spent by way of employees being furloughed for the backlog that had to be recouped upon their return.

NASA has essential duties, if you will. For if, for example, during a future Government shutdown that none of us would argue for, a shuttle flight is in progress, this amendment would ensure against unintended results because of budget negotiations. In fact, this would protect lives and provide a measure of safety for the utilization of the right employees and using them in the proper manner.

This amendment would designate NASA employees as essential personnel, causing important duties to be carried on, and furthermore, causing NASA to value and save necessary dollars.

This amendment, as well, Mr. Chairman, does give the opportunity for the director of NASA to make selections, but it does say that in order to ensure the safe, ongoing responsibilities of NASA that these employees be declared as essential, saving us money, and again, protecting the responsibilities and duties of NASA.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is micromanagement in its worst way. The NASA administrator has got the power to declare all employees in his agency essential, should there be a Government shutdown. He has the discretion to make a determination on which employees are vital for the health and safety of continued operations of NASA.

So to say that mission control walks off the job if there should be a Government shutdown while a space shuttle mission is up is ridiculous, because that is not going to happen. The NASA administrator has the power to make sure that those people who are responsible for the safe operation of the shuttle mission report to work and do their jobs as usual. That is what happened during the unfortunate Government shutdowns that we had in the last 2 years.

Mr. Chairman, this amendment is also unfair because it singles out NASA employees. Why should all NASA employees be declared essential but not all employees of the FBI, not all employees of the Treasury Department, not all employees of the Department of Health and Human Services, or any other department?

Mr. Chairman, I know that having a broader amendment would be ruled out of order as nongermane, but I think that it shows the terrible precedent this sets if we legislatively decree that employees of one department are all essential but not decree that employees of other departments are all essential.

Having said that, Mr. Chairman, let me say that it is my hope that we never have another Government shutdown. There are Members that are working on legislation that provide for a continuation of appropriations if a budget deal is not reached by September 30. We have had a similar law on the books in the State of Wisconsin, where I served in the State legislature for 10 years before I was elected to Congress.

When the budget was not passed on time, which was more often than when the budget was passed on time, the agencies simply continued at the existing level of appropriations, or at some other level that was determined by State law, and nobody was furloughed. Mr. Chairman, I hope that before September 30 we are able to get a similar law like that on the books. I can pledge my support to it.

That is the right way to go about this problem. The amendment offered by the gentlewoman from Texas is the wrong way. I would urge its defeat.

Mr. CRAMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the intent of this amendment. I think we talk too little about NASA employees. I am proud of their dedicated work. Unfortunately, they are held hostage every year as we face these relentless amendments that are offered on the floor, particularly by the gentleman from Indiana [Mr. ROEMER].

The NASA employees are not faceless bureaucrats, they are people who have been downsized and streamlined, and year after year they are asked to do more with less, but they have delivered. I think the gentlewoman from Texas [Ms. JACKSON-LEE] is doing them a valuable service by offering this amendment here today. They deserve our support. Let us keep them on the job.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding. Let me respond to the chairman and his comments. He is right, for us to do anything else today for the Department of Health and Human Services, Department of Justice, the FBI, would certainly be far-reaching.

The question of NASA's essentiality has to do a lot with NASA's agenda. That is, NASA is not on the ground, it is in space. On many occasions the need to be able to respond to the urgencies of space and a space shuttle being in need of the whole team being in place is the real issue behind making these employees essential.

Let us not in any way think about shutting down the Government again. I agree with the chairman, I do not want to shut down the Government. I agree with the ranking member, we never want to see that happen. But I do believe that because of the unique nature of NASA's business, it would be appropriate to declare these particular employees essential.

Mr. Chairman, might I say, however, I would inquire of the chairman, the gentleman from Wisconsin [Mr. SENSENBRENNER] on the basis the uniqueness of NASA's responsibilities, do we have any reason to believe that we would be able to find compromise on this language?

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. The answer is no, Mr. Chairman, because I think the principle of the amendment is bad. We should not be micromanaging the agency. If there is an emergency like a Government shutdown, I have every confidence in the NASA administrator to do the right thing.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the chairman for that. I vigorously disagree, however, Mr. Chairman. I am going to pursue this language further, and work to be able to define further the language that will appropriately separate out NASA employees for what I think is a very important responsibility.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment on minority university research and education programs.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas:

Page 17, line 22, strike "$102,200,000" and insert "$110,300,000".

Page 18, line 4, strike "$46,700,000" and insert "$54,800,000".

Page 18, line 8, strike "$108,000,000" and insert "$116,100,000".

Page 18, line 9, strike "$51,700,000" and insert "$59,800,000".

Ms. JACKSON-LEE of Texas. Mr. Chairman, this follows a line of consistency as it relates to education and science. This restores the dollars of this present level of authorization to the minority university research and education programs. It acknowledges the wealth of diversity in this country. It respects the excitement and, of course, the wealth of experience and diversity brought to us by the different communities in our Nation.

The minority university research and education programs are beneficial to developing national research that uses all of our Nation's strength in the sciences. This in particular covers Hispanics and all other minorities other than African-Americans. It restores the minority university funding to the fiscal year 1997 funding.

HBCU's and other minority universities are considered minority categories within the budget of NASA. Therefore, we are very much interested in being consistent in ensuring that Hispanic universities, those who are serving Hispanic constituencies and other minority groups have the same fair access to research dollars. This is not taking away to give to others, this is restoring dollars that were allotted in fiscal year 1997 funding.

Mr. Chairman, it is a known fact that this country is becoming increasingly diverse. It is a known fact that the Hispanic population is increasing. Therefore, I would argue that it is only fair to keep at the same level the funding to enhance research in the area of science in these universities that serve Hispanic populations.

Mr. Chairman, I would ask my colleagues to join me in equalizing science research by supporting this amendment that helps Hispanic universities or those universities serving Hispanic populations to be an equal player in the area of research and education as it relates to science.

In closing, Mr. Chairman, I would simply say that we can do this certainly in a manner that answers the question that I have always raised: Is science going to be the work of the 21st century? I believe it is. If it is going to be the science of the 21st century, we need to prepare Americans for that.

Americans are diverse. They live in diverse areas. This assures that universities that serve Indian populations, Hispanic populations, Asian populations, and other populations predominantly, other than African-Americans, will be able to play in the arena of science research.

□ 1545

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I respectfully disagree with the gentlewoman from Texas saying this amendment is necessary to equalize money that is spent between minority and nonminority students at universities that get NASA education funds. The figures are exactly the opposite and if we were to equalize the amount of money that was spent, we would be cutting the minority account even further than what is proposed in the bill.

Let me give you those figures. For the nonminority students and faculty, approximately 700,000 to 750,000 faculty and students benefit by the education programs of NASA every year. In the bill's figures in fiscal 1998, that amounts to approximately $76.55 spent per faculty or student from the education and program account in the nonminority institutions.

Using the bill's figures in the minority institutions in fiscal 1998, there will be 50,000 faculty and students benefited, and of those 50,000 students, approximately $934 will be spent per faculty and student in the minority research and education programs. So the minority research and education programs are getting 11 to 12 times the amount of money per student than the nonminority research and education programs, and the amendment of the gentlewoman from Texas wants to make that disparity still bigger. I think that is unfair.

Second, the amendment of the gentlewoman from Texas does not increase the total authorization for NASA. So while she pluses up the education account for NASA, that means that the other accounts will end up having their programs and their people reduced as a result of what is effectively an earmark. That means less money for science, less money for Mission to Planet Earth, less money for human space flight, less money for the Johnson Space Center in Houston, less money for the Kennedy Space Center in Florida, simply because of the direction that she is putting the capped amount of money in the authorization bill into this particular program.

So for this reason and the fact that we already are spending 11 to 12 times as much per faculty and student in the minority programs and should not increase that still further, contrasted to the nonminority programs, I would hope that this amendment would be defeated.

Mr. CRAMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to rise in support of the intent of this amendment. There is no question that we need to do all we can to ensure that all of our young people have an equal opportunity to an education. Our Nation will need the skilled scientific and engineering personnel that we can educate if we are to remain competitive in the 21st century.

However, I would hope that we could conduct hearings to examine how these academic programs are working as well as what additional resources might be needed.

Mr. Chairman, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for his kind inquiries.

I do agree that we can in the long run look at this as a global issue, how do we train our young people for the 21st century.

I would simply say, in response to the gentleman from Wisconsin [Mr. SENSENBRENNER] that this is a restoration of funds that were allotted in fiscal year 1997 when Mission to Planet Earth was funded, when the manned space shuttle was funded, when research was funded. So, therefore, we are not in a situation where we would be denying the funding to those particular items in fiscal year 1998.

This is a mere restoration of funds that will help in large part Hispanic universities, those that are traditionally serving Hispanic populations, those that are serving other minorities. As I indicated, this is an increasingly diverse country, and what we want most of all is to prepare professionals that would be able to take on the requirements of space and science in those careers.

Therefore, it is important that we support institutions that serve these minorities in the area of science and research. This does that. It gives them the latitude to draw down on funds that will allow them to have professors, to do research, to provide dollars in those particular areas.

Often we find out that in those areas that serve Hispanics and other minorities, there is a shortage of funds. They have to make choices. In many instances, they make the choices contrary to science and math and research.

This is to emphasize that we believe that they should be brought into the 21st century as well and to give them the opportunity to use these funds so that in the future that we see a rainbow array of astronauts, a rainbow array of scientists and engineers and those that work on planning the space

station because they have been trained in these disciplines.

I think that this is a worthwhile investment, not only in these institutions but, frankly, in America. It is a worthwhile investment in what we purport to be as we move toward the 21st century. I think that we should have the whole net included, Hispanics, other minorities, African-Americans and all others, excited about space, researching in space, being taught, learning and, of course, having institutions with the quality of expertise so that we can produce these kinds of professionals.

I ask my colleagues to consider this amendment and consider broadening the net and allowing us to invest in our future.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I understand the amendment of the gentlewoman from Texas, it proposes to increase the education funding back to the same level as the current year, which requires about an $8.1 million increase, which is offset in her amendment. I would be unfaithful to my district if I did not support this, because I have a district which is predominantly Hispanic. And we have a number of institutions in southern California which meet the criteria of institutions that would be benefited by this.

I am also aware of the fact that we have in some of our own territories institutions of higher education which would benefit from the additional funds that this amendment would produce and particularly need and would appreciate the additional assistance, even if for only a few hundred thousand dollars, to the improvement of math, science, and engineering education.

I think this is a worthy educational initiative. It goes to a category of students who we are seeking most assiduously to bring into these areas, and we are not going to bring them into these areas if we do not provide the additional assistance, as well as provide the hope of career opportunities in these fields which I think that we are beginning to do at the present time but still in insufficient numbers.

So for all of these reasons, I would like to support this amendment and hope that the Members will vote for it.

The CHAIRMAN pro tempore [Mr. NEY]. The question is on the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 226, not voting 21, as follows:

[Roll No. 91]

AYES—186

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Barton
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Frost
Gejdenson
Gephardt
Gilman
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lazio
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDade
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pitts
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Traficant
Turner
Vento
Visclosky
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weygand
Wise
Woolsey
Wynn

NOES—226

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (VA)
Deal
DeLay
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
McCarthy (MO)
McCollum
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Nethercutt
Neumann
Ney
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Pomeroy
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Strickland
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Watkins
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—21

Andrews
Clay
Clement
Condit
Cubin
DeFazio
Furse
Hall (OH)
Hefner
Hoekstra
Manzullo
McCrery
Myrick
Nussle
Porter
Schiff
Smith (OR)
Tanner
Towns
Velázquez
Yates

□ 1614

The Clerk announced the following pairs:

On this vote:

Mr. Towns for, with Mr. Manzullo against.

Ms. Velázquez for, with Mrs. Cubin against.

Messrs. GEJDENSON, DOOLEY of California, WAMP, and QUINN 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. MANZULLO. Mr. Chairman, due to an illness in my family, I was unable to be present for two House recorded floor votes on Thursday, April 24. Had I been present, I would have voted as follows:

On rollcall vote No. 90: "Yes" (Roemer amendment).

On rollcall vote No. 91: "No" (Jackson-Lee amendment).

□ 1615

The CHAIRMAN pro tempore [Mr. NEY]. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BARRETT of Nebraska] having assumed the chair, Mr. NEY, Chairman pro tempore 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. 1275) to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, and for other purposes, pursuant to House Resolution 128, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1273, 1274 and 1275, the bills passed today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REREFERRAL OF H.R. 892, AARON HENRY UNITED STATES POST OFFICE

Mr. KIM. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform and Oversight be discharged from further consideration of the bill, H.R. 892, and that the bill be rereferred to the Committee on Transportation and Infrastructure.

This bill would redesignate the Federal building located at 223 Sharkey Street in Clarksdale, MS, as the Aaron Henry United States Post Office.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR LUMP SUM ALLOWANCE FOR CORRECTIONS CALENDAR OFFICE

Mr. GUTKNECHT. Mr. Speaker, I offer a resolution (H. Res. 130) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 130

Resolved,

SECTION 1. LUMP SUM ALLOWANCE FOR CORRECTIONS CALENDAR OFFICE.

There shall be a lump sum allowance of $300,000 per fiscal year for the salaries and expenses of the Corrections Calendar Office, established by House Resolution 7, One Hundred Fifth Congress, agreed to January 7, 1997. Such amount shall be allocated between the majority party and the minority party as determined by the Speaker, in consultation with the minority leader.

SEC. 2. EFFECTIVE DATE.

The allowance under section 1—

(1) shall be available beginning with the month of May 1997;

(2) through the end of September 1997, shall be paid from the applicable accounts of the House of Representatives on a pro rata basis; and

(3) beginning with fiscal year 1998, shall be paid as provided in appropriations Acts.

Mr. GUTKNECHT (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT TO MONDAY, APRIL 28, 1997

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 29, 1997

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 28, 1997, it adjourn to meet at 12:30 p.m. on Tuesday, April 29, 1997, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GUTKNECHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

LET US GIVE OUR KIDS A HEAD START ON LIFE

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. MCGOVERN. Mr. Speaker, last week I joined with several of my colleagues in attending a White House Conference on Early Childhood Development. This conference focused on new scientific research that confirms what many parents have suspected for a long time: that the first few years of a child's life are critical, absolutely critical to that child's intellectual, emotional, and social development.

Last week I joined with the gentlewoman from Connecticut [Ms. DELAURO] and the gentleman from Maryland [Mr. HOYER] in introducing H.R. 1373, the Early Learning and Opportunity Act. One key component of our bill is increased Federal funding for the Head Start and Early Start programs, two true success stories in the effort to prepare our children for a lifetime of education.

I have taken to this well many times to speak of my support for improving the scope and quality of American education. But we must never forget that a child starts learning long before they enter their first classroom. If one believes, as I do, that education is truly the key to our Nation's economic future, we must begin early. The DeLauro-Hoyer-McGovern bill takes a solid first step in ensuring that our Nation's children can learn, share, and mature to their fullest potential.

Mr. Speaker, I include the following material for the RECORD that contains some additional facts regarding early childhood development.

THE EARLY LEARNING AND OPPORTUNITY ACT

(Original cosponsors: DeLauro, Hoyer, McGovern)

FINDINGS

The first three years of life are a critical period of brain development, intellectual growth, and emotional, social, affective, and moral development, which prepares a child for later life.

Scientific research shows that how individuals function from preschool through adolescence and adulthood hinges to a significant extent on the experiences children have in their first three years.

One in three victims of physical abuse is under one year old.

The National Educational Goals Panel has reported that nearly half of infants do not have what they need to grow and thrive.

High quality care from a parent or other adult is necessary to facilitate growth and development before the age of three.

More than half of mothers with babies under one year of age are working outside the home.

More than 50% of working women are not covered by the Family and Medical Leave Act, which provides a twelve week, unpaid maternity leave.

The United States is the only industrialized country in the world which does not provide paid maternity leave. 30 developing countries provide paid maternity leave.

5 million children under age three are in the care of other adults while their parents work outside the home.

According to the Carnegie Foundation "Starting Points" report, most parents of babies have few child care options. Many cannot afford to stay home with their children, or to pay for safe, high quality developmental child care.

State-wide and multi-state studies have found that less than 20% of child care for babies is of good quality; nearly half is so substandard that it adversely affects infant and toddler development and may put babies' health and safety at risk.

Families with children under the age of three are the single largest group living in poverty. 25% of children under the age of three—3 million children—are living below the poverty line, and are at greater risk for malnutrition, poor health, and maltreatment, and are less likely to receive the care they need from parents or other child care providers to grow and develop normally.

EARLY LEARNING AND OPPORTUNITY ACT

STATUS OF AMERICAN INFANTS AND TODDLERS FACT SHEET

Poor developmental outcomes early in life have been shown to be significant risk factors for academic failure, teen pregnancy, and juvenile delinquency later in life.

In 1993, the National Educational Goals Panel reported that nearly half of infants in the United States do not have what they need to grow and thrive.

According to the Carnegie Foundation "Turning Points" report, most parents today have few choices for infant and toddler care. Even middle class parents cannot afford to stay at home with their children, and yet cannot afford high quality child care which will promote normal development.

Fewer than half of America's working women are covered by the Family and Medical Leave Act, which provides a 12-week, unpaid leave to parents of companies which employ more than 50 employees.

The United States is the only industrialized country in the world which does not provide paid maternity leave.

Thirty developing countries provide paid maternity leave.

More than half of mothers with babies under one year of age are working outside the home.

More than 5 million American children under age 3 are in the care of other adults while their parents work outside the home.

Studies of care for very young children show that less than 20 percent of such care is of good quality.

One multistate study showed that 40 percent of child care for babies was so poor that it adversely affected the babies' development and threatened their health and safety.

One in three victims of physical abuse is a baby less than one year of age.

Families with children under age 3 are the single largest group living in poverty.

Three million children—25% of all children under age 3—are living below the poverty line, at greater risk for malnutrition, poor health, and maltreatment, and are less likely to receive the care they need from parents or other child care providers to grow and develop normally.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. NEY). 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.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES REFLECTING ACTION COMPLETED AS OF MARCH 25, 1997 FOR FISCAL YEARS 1997–2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

This report is to be used in applying the fiscal year 1997 budget resolution (H. Con. Res. 178), for legislation having spending or revenue effects in fiscal years 1997–2001.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, April 11, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of February 28, 1997.

The first table in the report compares the current level of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 178, the concurrent resolution on the budget for fiscal year 1997 as adjusted pursuant to 606(e) of the Budget Act for continuing disability reviews. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1997 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and new entitlement authority of each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 178 for fiscal year 1997 and for fiscal years 1997 through 2001. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 1997 with the revised "section 602(b)" sub-allocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, because the point of order under that section also applies to measures that would breach the applicable section 602(b) sub-allocation. The revised section 602(b) sub-allocations were filed by the Appropriations Committee on September 27, 1996.

Sincerely,

JOHN R. KASICH,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1997 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 178

[Reflecting action completed as of March 25, 1997—On-budget amounts, in millions of dollars]

	Fiscal years–	
	1997	1997–2001
Appropriate Level (as amended by P.L. 104–93):		
Budget authority	1,314,935	6,956,507
Outlays	1,311,321	6,898,627
Revenues	1,083,728	5,913,303
Current Level:		
Budget authority	1,331,836	(1)
Outlays	1,323,900	(1)
Revenues	1,104,262	5,975,917
Current Level over (+)/under (−) Appropriate Level:		
Budget authority	16,901	(1)
Outlays	12,579	(1)
Revenues	20,534	62,614

[1] Not applicable because annual appropriations Acts for Fiscal Years 1997 through 2001 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

FY 1997 budget authority exceeds the appropriate level set by H. Con. Res. 178 as amended by P.L. 104–93. Enactment of measures providing any new budget authority for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

OUTLAYS

FY 1997 outlays exceed the appropriate level set by H. Con. Res. 178 as amended by P.L. 104–93. Enactment of measures providing any new outlays for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

REVENUES

Enactment of any measure that would result in any revenue loss in excess of $20,534,000,000 for FY 1997 (if not already included in the current level estimate) or in excess of $62,614,000,000 for FY 1997 through 2001 (if not already included in the current level) would cause revenues to be less than

the recommended levels of revenue set by H. Con. Res. 178.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a), REFLECTING ACTION COMPLETED AS OF MARCH 25, 1997

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	BA	Outlays	NEA	BA	Outlays	NEA
House Committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,996
Current Level	5	5	5	55	55	55
Difference	5	5	5	55	55	−4,941
National Security:						
Allocation	−1,579	−1,579	0	−664	−664	0
Current Level	−102	−102	−21	−289	−289	−34
Difference	1,477	1,477	−21	375	375	−34
Banking, Finance and Urban Affairs:						
Allocation	−128	−3,700	0	−711	−4,004	0
Current Level	0	−6	0	0	0	0
Difference	128	3,694	0	711	4,004	0
Economic and Educational Opportunities:						
Allocation	−912	−800	−152	−3,465	−3,153	7,669
Current Level	1,967	1,635	1,816	11,135	10,296	8,852
Difference	2,879	2,435	1,968	14,600	13,449	1,183
Commerce:						
Allocation	0	0	370	−14,540	−14,540	−41,710
Current Level	3	3	492	242	195	1,430
Difference	3	3	122	14,782	14,735	43,140
International Relations:						
Allocation	0	0	0	0	0	0
Current Level	−1	−1	0	−1	−1	0
Difference	−1	−1	0	−1	−1	0
Government Reform and Oversight:						
Allocation	−1,078	−1,078	−289	−4,605	−4,605	−1,668
Current Level	0	0	0	0	0	0
Difference	1,078	1,078	289	4,605	4,605	1,668
House Oversight:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Resources:						
Allocation	−91	−90	−12	−1,401	−1,460	−59
Current Level	−19	−20	0	−144	−167	0
Difference	72	70	12	1,257	1,293	59
Judiciary:						
Allocation	0	0	0	−357	−357	0
Current Level	3	3	0	45	45	0
Difference	3	3	0	402	402	0
Transportation and Infrastructure:						
Allocation	2,280	0	0	125,989	521	2
Current Level	2,345	65	12	4,748	121	56
Difference	65	65	12	−121,241	−400	54
Science:						
Allocation	0	0	0	−13	−13	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	13	13	0
Small Business:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	−90	−90	224	−919	−919	3,475
Current Level	0	0	3	0	0	−52
Difference	90	90	−221	919	919	−3,527
Ways and Means:						
Allocation	−8,973	−9,132	−2,057	−134,211	−134,618	−10,743
Current Level	8,338	8,302	−2,840	73,457	73,476	−38,717
Difference	17,311	17,434	−783	207,668	208,094	−27,974
Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Total Authorized:						
Allocation	−10,571	−16,469	−1,916	−34,897	−163,812	−38,038
Current Level	12,539	9,884	−533	89,248	83,731	−28,410
Difference	23,110	26,353	1,383	124,145	247,543	9,628

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1997—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (Sept. 27, 1996)				Current level reflecting action completed as of Mar. 25, 1997				Difference			
	General purpose		Violent crime		General purpose		Violent crime		General purpose		Violent crime	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Agriculture Rural Development	12,960	13,380	0	0	13,009	13,373	0	0	49	−7	0	0
Commerce, Justice, State	24,493	24,939	4,525	2,951	24,838	25,065	4,526	2,954	345	126	1	3
Defense	245,085	243,372	0	0	243,851	242,887	0	0	−1,214	−485	0	0
District of Columbia	719	719	0	0	719	719	0	0	0	0	0	0
Energy & Water Development	19,421	19,652	0	0	19,973	19,923	0	0	552	271	0	0
Foreign Operations	11,950	13,311	0	0	12,267	13,310	0	0	317	−1	0	0
Interior	12,118	12,920	0	0	12,503	13,178	0	0	385	258	0	0
Labor, HHS & Education	65,625	69,602	61	38	71,026	71,517	61	39	5,401	1,915	0	1
Legislative Branch	2,180	2,148	0	0	2,170	2,132	0	0	−10	−16	0	0
Military Construction	9,983	10,360	0	0	9,982	10,344	0	0	−1	−16	0	0
Transportation	12,190	35,453	0	0	12,080	35,519	0	0	−110	66	0	0
Treasury-Postal Service	11,016	10,971	97	84	11,620	11,292	97	83	604	321	0	−1
VA–HUD–Independent Agencies	64,354	78,803	0	0	64,522	79,196	0	0	168	393	0	0
Reserve/Offsets	768	219	0	0	−2,750	−5,850	0	0	−3,518	−6,069	0	0
Grand total	492,842	535,849	4,683	3,073	495,810	532,605	4,684	3,076	2,968	−3,244	1	3

Note: Amounts in Current Level column for Reserve/Offsets are for Spectrum sales and BIF/SAIF. Those items are credited to the Appropriations Committee for FY 1997 only.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 10, 1997.

Hon. JOHN KASICH,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1997. These estimates are compared to the appropriate levels for those items contained in the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178) and are current through February 28, 1997. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
Budget authority	1,331,836	1,314,935	+16,901
Outlays	1,323,900	1,311,321	+12,579
Revenues:			
1997	1,104,262	1,083,728	+20,534
1997–2001	5,975,917	5,913,303	+62,614

Since my last report, dated March 4, 1997, there has been no action to change the current level of budget authority, outlays, or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

PARLIAMENTARIAN STATUS REPORT-105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS APRIL 9, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
PREVIOUSLY ENACTED			
Revenues			1,101,533
Permanents and other spending legislation	855,751	814,110	
Appropriation legislation	753,927	788,263	
Offsetting receipts	−271,843	−271,843	
Total previously enacted	1,337,835	1,330,530	1,101,533
ENACTED THIS SESSION			
Airport and Airway Trust Fund Tax Reinstatement Act of 1997 (H.R. 668)			2,730
APPROPRIATED ENTITLEMENT AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−5,999	−6,630	
TOTALS			
Total Current Level	1,331,836	1,323,900	1,104,262
Total Budget Resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	16,901	12,579	20,534
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	1,806	1,228	
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	323	305	
Total emergencies	2,129	1,533	
Total current level including emergencies	1,333,965	1,325,433	1,104,262

RECOGNIZE CUSTOMS AND INS INSPECTORS AS LAW ENFORCEMENT OFFICERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to honor the work of the officers and inspectors of the U.S. Immigration and Naturalization Service and the U.S. Customs Service and ask that they be accorded full Federal law enforcement status as outlined in H.R. 1215, which I recently introduced.

My bill will finally grant the same status to U.S. INS and Customs inspectors as all other Federal law enforcement officers and firefighters. It is in the public's interest to end the unfair, unsafe and expensive practice of excluding the inspectors from the law enforcement category. Because of the current lopsided law, INS and Customs lose vigorous, trained professionals to other law enforcement agencies. These agencies also lose millions of dollars in training costs and revenues that experienced inspectors help to generate.

Customs and Immigration inspectors are law enforcement officers. They carry firearms and are the country's first line of defense against terrorism and the smuggling of drugs at our borders. In my district, 200,000 people a day cross through the San Ysidro port of entry, making it the busiest port of entry and border crossing in the world. These inspectors face dangerous felons daily and disarm people carrying sawed-off shotguns, switch blade knives, and handguns. They have been run over by cars and have had shoot-outs with drug smugglers.

Just last week in Calexico, Customs inspectors Robert Labrada, Jr. and Nicholas Lira were shot by a man that they escorted to an inspection area reserved for those suspected of carrying illegal weapons or drugs. Before they had a chance to search him, the man pulled out a semiautomatic handgun and shot one inspector in the face and the other in the chest. The inspectors fired back to protect themselves. Both inspectors are now recovering from surgery, but they are lucky. Other Customs and INS inspectors have been killed in the line of duty, and their names are listed on the wall of the Law Enforcement Officers Memorial.

The shoot-out at Calexico last Friday is not an isolated incident. The callous, single-minded ruthlessness of drug smugglers put Customs and Immigration inspectors' lives at risk every single day.

One INS inspector at the San Ysidro port, Paul Cannon, has had to draw his service revolver four times in the last four years. In a recent case a criminal was trying to break through the inspection gates. Even at gunpoint, it took four inspectors to disarm and subdue him.

Yet the Federal Government does not classify these employees as law enforcement officers. United States Immigration and Customs inspectors daily put their lives on the line. It is time that we value those lives. I urge support of H.R. 1215 to correct the unequal treatment of these Federal law enforcement officers.

TRIBUTE TO 53RD ANNIVERSARY OF WORLD WAR II EXERCISE TIGER OPERATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. HULSHOF] is recognized for 5 minutes.

Mr. HULSHOF. Mr. Speaker, I rise today to honor a group of great and honorable Americans. On Monday, April 28, the Veterans of Foreign Wars Post 280 in Columbia, Missouri, will pay tribute to the 53d anniversary of the World War II Exercise Tiger operation, in which more than 750 Americans made the ultimate sacrifice.

Few Americans are aware of the circumstances surrounding the Exercise Tiger operation. What began as a top-secret military operation ended in a horrible moment frozen in time. In December 1943, the U.S. Army began conducting a number of training exercises in preparation for the Normandy invasion. These exercises concentrated on a long stretch of beach at Slapton Sands in Devon, England. This unspoiled beach of coarse gravel greatly resembled Omaha Beach, and it consequently made for an ideal simulation of what would be the D-day invasion.

Soldiers engaging in these maneuvers were under constant threat of attack, however, due to the many German E-boats patrolling the English Channel. One such exercise was utilized to prepare United States and British forces and was given the code name Exercise Tiger. These training exercises were conducted from April 22 to 30, 1944. The troops and equipment who participated in this maneuver embarked on the same ships and for the most part from the same ports from which they would later leave for France.

In the early morning hours of April 28, 1944, the convoy was maneuvering in Lyme Bay. Eight landing ship tanks and their lone British escort were en route to the landing area. Suddenly, in the pitch black night, nine German Navy E-boats patrolling the English Channel struck quickly and without warning. The presence of enemy boats was discovered only when the U.S.S. LST-507 was torpedoed. The ship burst into flames and survivors abandoned ship. Minutes later, the LST-531 was torpedoed and sank in 6 minutes. As the convoy returned fire, the U.S.S. LST-289 was also torpedoed, but was able to reach port.

The surprise German attack did not, however, stop Exercise Tiger. Landing

operations resumed the next day, on April 29, 1944. This is a credit to the tenacity and determination of the soldiers and sailors involved in Exercise Tiger. The D-day invasion of Normandy occurred as planned. However, casualty information and the details surrounding Exercise Tiger were not released until after the Normandy invasion in an attempt to keep the Germans from learning about the impending attack.

□ 1630

I believe, Mr. Speaker, it is time we recognize these brave men. Of the 4,000 man force, nearly a quarter were missing or dead. Official Department of Defense records confirm 749 dead, at least 441 Army and 198 Navy casualties, although facts suggest the numbers could be greater.

Mr. Speaker, it is finally time that we acknowledge the indispensable role that members of Exercise Tiger played in preparing for the D-day invasion and in making it a success. To that end, I am proud to acknowledge VFW Post 280 as the first organization in the State of Missouri to commemorate the men of the historic battle of Exercise Tiger. After 53 years these great Americans deserve to be properly honored by those who have benefited so much from their sacrifices.

CONGRESSIONAL RESOLUTION RECOGNIZING THE HEROIC EFFORTS AND SACRIFICES OF THE AMERICAN SERVICEMEN WHO TOOK PART IN EXERCISE TIGER AND THEIR CONTRIBUTIONS TOWARD THE SUCCESS OF THE HISTORIC D-DAY INVASION DURING WORLD WAR II

Whereas the D-Day invasion of Normandy on June 6, 1944, was one of the most heroic battles of World War II and a critical turning point leading to Allied victory;

Whereas during the Exercise Tiger training mission for D-Day, members of the operation were exposed to great danger by carrying out this treacherous exercise in the English Channel during a period of increased German torpedo boat patrols;

Whereas on April 28, 1944, soldiers and sailors of the Exercise Tiger mission were unexpectedly attacked by 9 German Torpedo boats off the coast of Slapton Sands, England;

Whereas 749 American soldiers were killed in the attack;

Whereas the heroic efforts of these soldiers have not been sufficiently recognized in American history;

Whereas the United States Congress has not provided adequate recognition to sailors and soldiers who participated in Exercise Tiger; and

Whereas April 28, 1997 will be the 53rd anniversary of the tragedy of Exercise Tiger: Now, therefore, be it

Resolved, that the American Servicemen who took part in Exercise Tiger be recognized for their contributions towards the success of the historic D-Day invasion during World War II, preserving the virtues of freedom and democracy.

INDIA'S NEW PRIME MINISTER, INDER KUMAR GUJRAL

The SPEAKER pro tempore (Mr. NEY). Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise today to congratulate India's new Prime Minister, Inder Kumar Gujral, for winning the vote of confidence of the Indian Parliament this past Tuesday. This vote of confidence has put an end to the 24-day government crisis and provides yet another indication that India's democratic institutions remain very strong.

Mr. Speaker, Prime Minister Gujral is committed to strengthening United States-India ties. He has assured foreign investors that he will support free market reforms and initiatives. These reforms have opened India to United States businesses and industries. In a recent meeting with the Indian President Sharma, he assured the President that all the economic policies of the previous government will continue and be strengthened.

Prime Minister Gujral has already shown that given the opportunity he will bring peace to South Asia. His policies as Foreign Minister in the previous government have been coined as the Gujral Doctrine. He has already laid the groundwork to ease tensions in this traditionally volatile region. As Foreign Minister for Prime Minister Gowda, Mr. Gujral helped orchestrate the Bangladesh Water Agreement, a water treaty that ended years of dispute over water sharing rights between India and Bangladesh. He supervised an accord in which India and China agreed to reduce troops along the Himalayan border.

But most important, Mr. Speaker, Mr. Gujral has vowed to improve relations with Pakistan and made this the priority of India's foreign policy. Mr. Gujral helped initiate peace talks between India and Pakistan after a lull of 3 years. He is confident that the two neighbors can reach agreement in many areas through bilateral talks, and on May 12 of this year Prime Minister Gujral and Pakistani Prime Minister Sharif will meet in the Maldives to discuss peace.

Mr. Speaker, what is extraordinary about these accomplishments is that they were achieved within 10 months since the united front first took charge of the Indian Government. An even stronger sign of Prime Minister Gujral's ability to bring peace to the region can be seen in the troubled region of Jammu and Kashmir. This morning Kashmiri leaders stated that they believe that the new Prime Minister could help normalize relations between Pakistan and India and bring peace to Kashmir. A popular Kakshmiri separatist leader told Reuters News Service that if Mr. Gujral continues to be Prime Minister of India for a long period, I believe he can play a historic role in bringing India and Pakistan closer and solve the Kashmir problem.

Mr. Speaker, Prime Minister Gujral is India's third Prime Minister in the last 11 months. However, as we have seen, democracy remains strong and vibrant in India. As the Prime Minister said in a speech on Monday, we can change government but the system goes on, democracy continues, and it is strengthened.

As cochairman of the Congressional Caucus on India and Indian-Americans, I believe that Prime Minister Gujral can best lead India toward the 21st century, and I look forward to working with the Prime Minister in strengthening United States-India relations.

I want to also urge the Clinton administration, Members of this House and the Senate to support Prime Minister Gujral and assist him in bringing peace to South Asia. Mr. Speaker, I would also like to add that this year marks the 50th anniversary of India's independence. Since her birth in 1947, India has hosted free and fair elections through a multiparty political system and has maintained an orderly transfer of power from government to its successor. In light of this achievement, I would urge President Clinton and more Members of this body to visit India this year and to support this momentous occasion.

INTRODUCING THE EXPANDED WAR CRIMES ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, last week I introduced the Expanded War Crimes Act of 1997. It is a bill which expands the jurisdiction of my original bill, the War Crimes Act of 1996.

Last year I came before this House and told a story of a Navy pilot named Mike Cronin who had spent time as an uninvited guest of the Hanoi Hilton. I spoke of Mr. Cronin's time in Vietnam as an A–6 pilot and of his being shot down and taken prisoner of war and how he spent 6½ years living in a cage. Mike Cronin's story shocked many of you when I told you that upon his return to America he realized that while he and many others had witnessed horrible crimes of war being committed, no justice could be found within the U.S. court system because Congress had not yet enacted implementing legislation of the Geneva Convention. Well, a good number of you must have listened because I am pleased to say that last year Congress finally enacted implementing legislation of the Geneva Conventions of 1949. Held by the strong support of the State Department, the Defense Department, the American Red Cross, and many others, the War Crimes Act of 1996 finally signed into law legislation originally proposed back in the 83d Congress. The War Crimes Act of 1996 gave the United

States the legal authority to try and prosecute the perpetrators of war crimes against American citizens. Additionally those Americans prosecuted now have available all the procedural protections of the American justice systems, quite a victory for America.

The 105th Congress cannot and should not stop there. We must protect all the rights of our men and women defending the interests of our country abroad. It is for that reason that I introduced the Expanded War Crimes Act of 1997. I stand before this body today to encourage my colleagues to support this expanded bill. The War Crimes Act of 1997 expands the definition of my original bill to cover not only the grave breaches of the Geneva Convention but also a more general category of war crimes. The bill also includes important articles of the Hague Convention which has long been recognized as an important source of international humanitarian law with respects to means and method of warfare, and finally it includes the international protocol on land mines thereby insuring that the delivery and indiscriminate use of antipersonnel mines to harm civilians would constitute a criminal offense. While the bill is not retroactive, it can ensure that any future victims of war crimes will be given the full protection of the U.S. courts.

My colleagues, it is a bill which would rectify the existing discrepancies between our Nation's intolerance of war crimes and our inability to prosecute war criminals. Please join me as a cosponsor of this important and critical legislation.

NINTH ANNUAL CONGRESSIONAL FIRE AND EMERGENCY SERVICES DINNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to discuss a situation that is an ongoing problem in this country, and that is our ability to respond to disasters and life-threatening situations. At this very moment we are witnessing nationally the response to major flooding in the Dakotas. Over the past several years we have seen a number of incidents involving loss of life and property damage caused by hurricanes and tornadoes and earthquakes and fires of tremendous magnitudes. These incidents are becoming more complicated. Within the last several hours, there has been an incident uptown in Washington, DC, involving an unknown agent where first responders in this city had to respond in special suits because they were not sure whether or not it involved a chemical or biological incident.

Mr. Speaker, day in and day out, 1.2 million men and women in this country, our domestic defenders, respond to every disaster and emergency situation that this Congress or that this country and our communities face.

On Wednesday of next week, Mr. Speaker, we will in fact host the Ninth Annual Congressional Fire and Emergency Services dinner where 2,000 of the leaders of our domestic defenders across the country from every State will assemble in Washington to again celebrate the work that these brave individuals provide. They are involved in 32,000 organized departments, they are paid and they are volunteers, and they are out there day in and day out as the first responders to America's problems.

Mr. Speaker, I urge our colleagues to join with us in paying tribute to them. Speaker GINGRICH will be our keynote speaker this year. Last year we had AL GORE and we had Bob Dole. The previous 2 years we had President Clinton. Speaker GINGRICH will in fact address these individuals and reinforce the commitment of this Congress to work on their priorities.

During Wednesday afternoon, Mr. Speaker, starting at 12:45 the Marine Corps Chemical and Biological Incident Response Team, which was created by Congress over the past year, will respond to a simulated incident involving a chemical or biological agent in the Rayburn Park. Two hundred forty marines will arrive from Camp LeJeune, and they will demonstrate our country's ability to respond to a life-threatening situation involving an unknown agent.

But, Mr. Speaker, even though our marines are the finest in the world and this team is the finest in the world today, the first responders who have to go on these scenes in the first few minutes are those most at risk, and they are the ones that we have to make sure have the proper protection, the proper training, and the resources to meet these threats until reinforcements can in fact be provided by our military and by the marine response unit.

On Wednesday during the day and the evening, we will focus on this group of people and we will discuss the key priorities that we in this Congress can focus on to assist these 1.2 million men and women to better serve their communities.

Mr. Speaker, I urge all of our colleagues to join with us both during the day at the information sessions, meetings that will be held in Member offices, and finally on Wednesday evening to the Washington Hilton to attend the ninth annual dinner.

Mr. Speaker, there are no braver group of people in this country who respond to every type of disaster that we face as a nation, and many of them are not being paid to respond, and it is appropriate that we in the Congress provide the appropriate resources and support to allow them to continue to serve America.

INTRODUCTION OF THE VOTER ELIGIBILITY VERIFICATION ACT—H.R. 1428

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, today I and 16 other colleagues are introducing the Voter Eligibility Verification Act, H.R. 1428. I think most American citizens would say that the very hallmark of citizenship is the right to cast one's vote and to have it counted. But in America we have increasingly situations where people who are not American citizens are voting, and local registrars and State chief election officers are at their wit's end as to how we can find out who are American citizens and who are not.

The Voter Eligibility Verification Act of 1997 intends to solve that problem. I am very conscious of what one vote means. When I go to high school civic classes and talk to seniors, I stress my own primary back in 1992. I won by one-fifth of a vote per precinct.

So each vote is precious. One's individual vote does count, and in introducing this bill we are trying to ensure the integrity of national, State, and local elections. By preventing noncitizens from registering to vote, we are fulfilling the spirit of the Constitution. The 16 colleagues who join me have also had experience with close elections in Arizona, California, and Ohio among other States. In many jurisdictions, it is simply too easy to vote fraudulently.

Last October, California Secretary of State Bill Jones dropped 727 people from the voter rolls after they completed voter registration forms that simply indicated they were not citizens. Secretary Jones has endorsed the bill, and I would like to place his endorsement letter in the RECORD.

SECRETARY OF STATE,
State of California, April 3, 1997.

Hon. STEVE HORN,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN HORN: I am writing to express my strong support of your proposed legislation to permit elections officials to have access to INS information.

As you know, I have set as my goal as Secretary of State 100% voter participation and zero tolerance for fraud. In the last two and a half years my office has moved aggressively towards both of these goals.

In regards to voter participation, I have established an aggressive and comprehensive outreach program via television, radio, signs on buses, printed messages on bank ATM receipts, grocery bags, La Opinion newspaper, and billboards, and a variety of other programs within the public and private sector.

My election reforms include a statewide voter file (CalVoter) to clean duplicate and deadwood voter records off our lists; a place on the voter registration form to provide a driver's license number as a unique identifier; the first ever cross-county check for double voters; a crackdown on bounty hunters, to name just a few. I am working hard to

send a message of deterrence to any who would abuse our elections system in any way.

However, there are still some reforms uncompleted that are critical to the future integrity of California's election system. Number one is the issue of citizenship. The federal NVRA [National Voter Registration Act—"Motor Voter"] and California election law clearly state that only those persons who are United States citizens are eligible to register and vote in elections. Unfortunately, we have very limited tools to be able to verify or check if a voter is a citizen.

Your bill, which would provide for access to records residing with the Immigration and Naturalization Service would materially benefit election officials in our efforts to maintain the integrity of the voter file. Please feel free to contact my office for assistance in securing passage of this most important measure.

Sincerely,

BILL JONES,
Secretary of State.

Mr. HORN. Mr. Speaker, in another startling case in 1994, it was discovered that Mexican presidential candidate Luis Donald Colosio was assassinated by one of his countrymen who had registered to vote in Los Angeles County twice despite the fact that he was not a citizen of the United States.

Elections are the very lifeblood of democracy. Fraud in elections poisons our electoral system and undermines the trust that is essential to democracy.Under the bill we are introducing today, State and local election officials would be able to make inquiries to the Social Security Administration which has a record of citizenship when they assign a Social Security number, and the Immigration and Naturalization Service which also can help verify people who have submitted to naturalization and citizenship.

□ 1645

I want to emphasize that this legislation includes extensive restrictions on the use of the system to prevent discrimination and violations of privacy rights. This legislation strikes a vitally needed balance between protecting the sanctity of our elections and the rights of every individual.

Last year, we saw many elections where the possibility of noncitizens voting was before us. Last year in the 104th Congress, we passed a historic Illegal Immigration Reform and Immigrant Responsibility Act. It made it explicitly illegal for noncitizens to vote. But without having a way to verify registrants' ability to vote, State and local election officials simply could not enforce that law effectively.

Voting, as I suggested, is the most fundamental act of citizenship. The people who administer our elections ought to have access to the information they need to ensure the integrity of the ballot box. American citizens deserve no less.

Mr. Speaker, I attach for inclusion the following exhibits:

Exhibit I: A Summary of The Voter Eligibility Verification Act.

Exhibit II: The sponsors of H.R. 1428.

Exhibit III: The text of H.R. 1428.

EXHIBIT I

SUMMARY: THE VOTER ELIGIBILITY VERIFICATION ACT

Under the bill, local election officials would be able to make inquiries with the Social Security Administration and the Immigration and Naturalization Service to verify the citizenship of people who have submitted a voter registration application at the local level. Both agencies are involved because neither has a comprehensive record of all current citizens. The agencies only will respond if the inquiry is necessary for determining eligibility to vote.

The bill also makes it clear that state and local governments also may require the Social Security number as part of the voter registration process. According to the Congressional Research Service, 13 states require the Social Security number on their voter registration forms. It is optional on the forms of 14 states.

The bill requires the verification process to be designed to be as reliable and easy to use as possible, so long as privacy and information security are protected. Election officials would be able to make inquiries through a toll-free telephone call or other toll-free electronic media.

The bill also requires Social Security and INS to update their information to make it as accurate possible, and to set up a process for prompt correction of erroneous information.

There is no mandate on state or local governments to use the proposed verification process. It is simply a tool available to them should they choose to use it.

The bill also includes extensive restrictions on the use of the verification process to prevent discrimination and violation of privacy. The verification process in the bill is to be designed and operated with administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, and safeguards against discrimination, including the selective or unauthorized use of the verification process. The bill requires the verification process to be "uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965."

It explicitly does not authorize a "national ID card" or the creation of a new database.

Finally, people whose citizenship status cannot be confirmed by the process proposed in the bill would have the opportunity to provide proof of their citizenship to local registrars of voters. Under the bill, if an individual's citizenship cannot be confirmed, the election official has to notify the individual in writing and inform them of their right to establish their eligibility to vote (provide proof of citizenship). The individual's voter application can then be rejected, the individual's name can be removed from the voting rolls, or the individual can be given provisional voting status.

California Secretary of State Bill Jones has endorsed the bill. The bill's original cosponsors are Representatives David Dreier (R-CA), Mark Foley (R-FL), Brian Bilbray (R-CA), Ken Calvert (R-CA), Randy "Duke" Cunningham (R-CA), Phil English (R-PA), Elton Gallegly (R-CA), Duncan Hunter (R-CA), Jerry Lewis (R-CA), Howard "Buck" McKeon (R-CA), Ron Packard (R-CA), Frank Riggs (R-CA), Ed Royce (R-CA), Cliff Stearns (R-FL), Bob Stump (R-AZ), and James Traficant (D-OH).

EXHIBIT II

THE SPONSORS OF H.R. 1428

Mr. Horn and:
1. Mr. Dreier.
2. Mr. Foley.
3. Mr. Bilbray.
4. Mr. Calvert.
5. Mr. Cunningham.
6. Mr. English (PA).
7. Mr. Gallegly.
8. Mr. Hunter.
9. Mr. Lewis (CA).
10. Mr. McKeon.
11. Mr. Packard.
12. Mr. Riggs.
13. Mr. Royce.
14. Mr. Stearns.
15. Mr. Stump.
16. Mr. Traficant.

EXHIBIT III

THE TEXT OF H.R. 1428

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 "Voter Eligibility Verification Act".

SEC. 2. VOTER ELIGIBILITY CONFIRMATION SYSTEM.

(2) IN GENERAL.—Title IV of the Immigration and Nationality Act (8 U.S.C. 1101, note) is amended by inserting after the chapter heading for chapter 1 the following:

"VOTER ELIGIBILITY CONFIRMATION SYSTEM

"SEC. 401. (a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a confirmation system through which they—

"(1) respond to inquiries made to verify the citizenship of an individual who has submitted a voter registration application, by Federal, State, and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election; and

"(2) maintain a record of the inquiries that were made and of verifications provided (or not provided).

"(b) INITIAL RESPONSE.—The confirmation system shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

"(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

"(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

"(1) to be used on a voluntary basis, as a supplementary information source, by Federal, State, and local election officials for the purpose of assessing the eligibility of voter registration applicants, and administering voter registration, through citizenship verification;

"(2) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

"(A) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

"(B) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

"(3) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

"(4) to permit inquiries to be made to the system through a toll-free telephone line or other toll-free electronic media;

"(5) to respond to all inquiries made by authorized persons and to register all times when they system is not responding to inquiries because of a malfunction;

"(6) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

"(7) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the system.

"(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

"(1) IN GENERAL.—As part of the confirmation system, the Commissioner of Social Security shall establish a reliable, secure method, which compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and citizenship must be confirmed, the correspondence of the name and number, and whether the individual is a citizen of the United States. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

"(2) PROVISION OF ALIEN IDENTIFICATION NUMBER.—In cases of tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security after an initial inquiry to the Commissioner, the Commissioner, as part of the confirmation system, shall provide to the person making the inquiry any information the Commissioner maintains regarding an alien identification or authorization number for the individual established by the Immigration and Naturalization Service. The Attorney General, in consultation with the Commissioner, shall specify the information to be provided under this paragraph.

"(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation system, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method, which compares the name and alien identification or authorization number described in subsection (e)(2) which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the individual is a citizen of the United States.

"(g) UPDATING INFORMATION.—The commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c).

"(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

"(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

"(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of the Voter Eligibility Verification Act.

"(i) ACTIONS BY VOTING OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

"(1) IN GENERAL.—In a case where an official who is authorized to receive information through use of the confirmation system is unable, after completion of the secondary verification process, to confirm the citizenship of an individual, the official—

"(A) shall so notify the individual in writing; and

"(B) shall inform the individual in writing of the individual's right to use—

"(i) the process provided under subsection (g) for the prompt correction of erroneous information in the confirmation system; or

"(ii) any other process for establishing eligibility to vote provided under State or Federal law.

"(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may, subject to, and in a manner consistent with, State law, reject the application, or provisionally accept the application, pending the official's receipt of adequate confirmation of the citizenship of the individual.

"(3) VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may, subject to, and in a manner consistent with, State law, remove the name of the individual from the list, or grant the individual provisional voting status, pending the official's receipt of adequate confirmation of the citizenship of the individual.".

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting before the item relating to section 402 the following:

"Sec. 401. Voter eligibility confirmation system.".

SEC. 3. PERMITTING STATES TO REQUIRE APPLICANTS REGISTERING TO VOTE TO PROVIDE SOCIAL SECURITY NUMBER.

Clauses (i) and (vi) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) are amended by inserting "voter registration," after "driver's license,".

KEEPING SOCIAL SECURITY SOLVENT

The SPEAKER pro tempore (Mr. NEY). Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, today the trustees of Medicare issued their report and also the trustees of Social Security issued their report. I think this is another indication that this country, has got to do something, if we are going to keep Social Security solvent, if we are going to keep Social Security available to not only existing retirees, but future retirees.

In the report, the trustees estimated that the time that the Social Security Trust Fund was going to run out of money, the time that there was going to be less money coming in in taxes than was required for benefit payout would be 2012. And they also calculated a slight increase in their estimate of the tax increases necessary to keep Social Security solvent.

One year ago, they estimated that it would take a tax increase of 2.19 percent of payroll. This year they are estimating that it is going to take a tax increase of 2.23 percent of payroll, slightly a worse condition.

However, there is a couple of assumptions that the Social Security trustees used to come up with this estimate. One is they calculated that CPI would be one-half of 1 percent less than their estimates of a year ago.

The second assumption was that real interest rates would increase and therefore, the interest paid from the general fund to the Social Security Trust Fund on the Government securities in the fund would actually increase.

What we have to face up to, Mr. Speaker, is the fact that when there is less money coming in than is required for payout, somehow Congress and the U.S. Government is going to have to come up with the money to pay back the money borrowed from the trust fund. How do they do it? How would they come up with these billions of dollars.

They have several options. One is to cut spending in other programs. One is to increase taxes on existing workers and say, in effect, look, what we borrowed from you we are going to pay back by increasing your taxes and make you pay this additional sum in.

Let me just give my colleagues a couple examples of how much the general fund is going to have to come up with to continue to pay the benefits that are now promised under Social Security.

In the year 2020, for example, the general fund is going to have to pay to Social Security $219 billion in order to come up with the money necessary for promised benefits.

Mr. Speaker, Members of Congress, the President, politicians are going to have to take their heads out of the sand. They are going to have to face up to the problem that this Ponzi game of Social Security cannot maintain itself,

and we need to take immediate action. The suggestion of the gentleman from Wisconsin [Mr. NEUMANN] that has the support of a lot of us that say at the very least, let us stop Government from reaching into the Social Security Trust Fund and then using that money for other program payments.

The long-range solution will be, I hope, similar to the bill that I have introduced that is now scored by the Social Security Administration to keep Social Security solvent for the next 75 years. The bottom line is we have to pay attention to it. The longer we put it off, the more drastic the solutions will have to be.

DISCRIMINATION WITHIN USDA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, known as the people's department, the USDA was established when President Lincoln signed the law on May 15, 1862. It is ironic that the very department created by the President, who signed the Emancipation Proclamation, today faces widespread and documented charges of unfair and unequal treatment of socially disadvantaged and minority farmers.

The farmers and ranchers of America, including minority and limited resource producers, through their labor, sustain each and every one of us and maintain a lifeblood of our Nation and the world. These people do not discriminate. Their products are for all of us. Therefore, it is important that we do all within our power to ensure that each and every producer is able to farm without the additional burden of institutional racism rearing its ugly head.

Mr. Speaker, it greatly concerns me that in my home State of North Carolina, there has been a 64-percent decline in minority farmers just over the last 15 years from 6,996 farms in 1978 to 2,498 farms in 1992. There are several reasons why the number of minority and limited resource farmers are declining so rapidly, but the one that has been documented time and time again is the discriminatory environment present in the USDA, the very agency established to accommodate and to assist the special needs of all farmers and all ranchers.

In November of last year, the Farm Service Agency Administrator, Grant Tuntrock, stated in a public speech that, "We recognize there have been instances of discrimination in responding to the requests for our services in the past, and we deplore it," he said. As I have stated before, the time has come, however, not just to deplore these occurrences, but to put a stop to them.

We must resolve that the many pending individual cases where discrimination has been found, the planting season is upon us, and if these farmers are to be given the opportunity to farm this year, financial resolution of the unjust treatment they have received must come and must come very, very soon.

With our understanding of this issue, it is my hope that we will continue with a steady movement toward legislation that the emancipation, in the first instance, was to give people equal opportunity, that we in this House will have the courage to stop this and have legislation that will prevent it from happening in the future.

POSSIBLE CHANGES FOR SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. SANFORD] is recognized for 5 minutes.

Mr. SANFORD. Mr. Speaker, my colleague from Michigan [Mr. SMITH] just talked about some of the problems facing Social Security if we do nothing to address what the trustees; again, not what Republicans or Democrats have said, but what the trustees have said if we do nothing.

I would like to talk for just a moment about not just the problems inherent in Social Security, because it has done a lot of great things for my mother, for my grandparents, but we need to address some of the benefits that might come if we looked at changing Social Security.

I think, first, we might want to define what we mean by changing Social Security. I do not believe, and I do not think anybody believes, that changing Social Security ought to mean taking Social Security away from existing retirees or those about to retire. However, what I do believe in terms of changing Social Security is that we ought to begin at least talking about the possibility of, while leaving seniors whole, looking at and exploring options for young people.

Mr. Speaker, what I have consistently heard from young people in my district is that they do not think they are going to get all of the Social Security that is due them. One of the interesting things to look at is I guess a number of the benefits that might come with change.

One of the benefits would be just saving the system, because what the trustees have said is that if we do nothing, it goes bankrupt in about 30 years. But more important than just saving the system, the whole purpose of Social Security ought to be a noble retirement. If one earns more with their Social Security investment, they can retire with more.

What the Social Security trustees have said today is that on average, people today earn about 1.9 percent on their quote "Social Security investment," and most of the folks I talk to in my home district say that they could earn more than 1.9 percent on their retirement investment.

What this means is, if you take somebody earning $24,000 a year and if one group earns 1.9 percent on their investment and another group earns 5 percent on their investment, it does not take a rocket scientist to know that second group is going to earn more and end up with more in their retirement, and I think that to be a very big benefit of this possibility of changing Social Security.

Another benefit that I think is worth mentioning is the whole notion of retirement age. A pay-as-you-go system, I think, comes at a tremendous cost in terms of human happiness, because with a pay-as-you-go system, we all have to retire at the same age. Yet I can walk down the grocery store aisle and look at 25 different kinds of detergent, I can look at 30 different kinds of toothpaste, I can look at a long magazine stack of different kinds of magazines, but I cannot choose for me when I want to retire, and I think that that, again, comes at a tremendous cost in terms of human happiness, because we are all different.

In my home State of South Carolina, we have STROM THURMOND, who would like to work until he is 100 or 150, I am not sure, but he wants to work basically until he dies. And I say God bless him; go for it. But I have many other friends who say that work is fine, but fishing is even better. I want to retire when I am 50. With the idea of personal savings accounts, you could choose for yourself when you want to retire rather than a Congressman or a Senator or a bureaucrat in Washington choosing for you when you want to retire.

Another benefit I think worth mentioning, and again, there are many, but one other worth mentioning would be we could do something about the national savings rate. Right now in our country we have a savings rate that bumps along somewhere between 3 and 5 percent.

Well, in China, they have a savings rate of about 40 percent. In Singapore, they have a savings rate in the mid 30's. In South Korea, they have a savings rate in the high 30's. In Chile, where they instituted this system, they have a savings rate in the high 20's, and here we are bumping along at 3 to 5 percent.

We cannot advance a modern industrial society on a 3-percent national savings rate, because the thing that politicians leave off while they will talk about the fact that we need to do something about standard of living in America, they will not talk about what it is that affects standard of living in America, and that is that savings drives investment, which drives productivity gain, which drives standard of living.

In short, if you were to have a woodcutting contest in the backyard, and

you gave one fellow a little hand ax that cost you 3 bucks, and you gave another person a chain saw that cost $300, the person with the $300 chain saw, however much weaker or however slight, would be able to end up with a bigger stack of wood and consequently more in the way of income.

I know that I am eroding away at my 5 minutes here, so I will call it quits. But the point is to say that there are many benefits that might come with this proposed talk of changing Social Security so that we save it for the next generation and so that my three boys get Social Security as well.

□ 1700

PROBLEMS FACING AMERICA THAT MUST BE ADDRESSED NOW

The SPEAKER pro tempore (Mr. MICA). Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I rise tonight to talk about an issue that I think is very important. It is really the issue I came here for in the first place.

Up until 1989 I had never been involved in any politics in any way, shape, or form. In 1980 my wife and I started a business in the basement of our house. The business grew. It was real estate. In 1986 we started a homebuilding company, and we understand fully if we had lost money in the second year and the third year, that the banks would have taken that business away from us. It is that kind of background that I bring here.

But instead of losing money in the second year the homebuilding company turned around. After building 9 homes our first year, providing 18 jobs in southeastern Wisconsin, we wound up building about 120 homes 4 years later, making a legitimate profit in our business and providing 250 job opportunities in southeastern Wisconsin.

I bring that background here because when I think back to those years, the late 1980's and even 1990, and I think about that business and how it grew and prospered and provided job opportunities, I sometimes forget why it was that I left that business that was going so well to come to Washington, and then I look at this picture. It reminds me of the future that we have for our children if something is not done about the growing debt facing the United States of America today.

I always look at this chart as one of the best charts that I have ever seen that shows actually what is going on in our country. This shows the growing debt facing America. From 1960 to 1980 one can see that the debt did not grow hardly at all, but from 1980 forward we are on a very, very steep climb that is going to destroy the future of this Nation for our children.

I like to point out that at this point in time we are about here on this chart, and the debt continues to grow and grow and grow. I rise tonight to remind my colleagues of that, because there are a lot of bills going on right now in this community that relate very directly to this picture that I have here with me.

In fact, the debt today is $5.3 trillion facing the United States of America. The legacy that our generation is going to pass on to the next generation of Americans; that we, the people that are working today are going to pass on to our children and our grandchildren, that legacy is of a $5.3 trillion debt.

Let me put that into perspective so we keep in mind what that really means. That debt translates into $20,000 for every man, woman and child in the United States of America today. For a family of five, like mine, the United States Government has borrowed $100,000 basically in the last 15 years.

Let me translate that into what that really means. That means that an average family of five, like mine, is paying $600 a month into this Government to do nothing but pay the interest on the debt. An average family of five, like mine, pays $600 a month to do nothing but pay the interest on the Federal debt.

A lot of people say, do not worry about me, I do not pay that much in taxes. The reality is when you walk into the store and you buy something as simple as a loaf of bread, the store owner makes a profit when you pay him for that loaf of bread or her for that loaf of bread, and part of that profit comes into the U.S. Government in the form of taxes.

One way or another, every family of five in the United States of America, every group of five people in the United States of America today, is paying $600 a month toward the interest only. That does not count Social Security or Medicare or defense, or any of the other important programs our Government runs. That $600 a month does nothing but pay the interest on the Federal debt.

Why is that significant? Right now there are a lot of things happening out here in Washington, DC. Two years ago a group of people came here, 73 freshman Republicans came here with the idea that we were going to solve this disastrous problem and what it means for the future of our country. We have committed ourselves to shrinking the size and scope of Washington, and shrinking the involvement of this Government in the lives of real Americans, of everyday people, the people that get up every morning and go to work.

Our goal was to get this Government smaller, so those people could in fact look forward to the opportunities that exist if this debt was not there, keeping that extra $600 a month in their own pockets. That is what our goal was 2 years ago.

Now today it is 2 years later, and a lot of the freshmen that came here 2 years ago and a lot of the others in this Congress have kind of forgotten, it seems, sometimes what we came here for. In fact, the heart and soul of one of the things we came here for, making Washington smaller, the funding of Washington committee staff, is a bill that is being considered as we speak this evening right here and now.

The Washington committee staff proposal this year was to increase spending for Washington committee staff by 14½ percent. To me, that is contrary to everything that we came here for and everything we came here to be about. The concept of increasing Washington committee staff spending by 14½ percent is against everything that I believe in and everything we came here for. That is making Washington bigger and more intrusive into our lives, as opposed to what I believe Republicans stand for, and that is making Washington smaller.

When I look at this debt picture, it reminds me of how important it is that we win these battles to keep Washington shrinking, as opposed to turning around and letting it start growing again.

There is another looming battle. This battle is even tougher. It is the supplemental appropriation bill. For those in America that do not know exactly what that means, Mr. Speaker, that means it is a spending bill of American tax dollars. Washington people are going to spend your money.

I have to say that this supplemental, we are spending it on some legitimate things. There are flood victims all across America, and those flood victims need help. When I talk to the folks back home in Wisconsin, the vast majority of those people are willing to help others less fortunate than themselves, like the folks in North Dakota that we have been seeing on TV, where a city of 50,000 is literally under water.

The city of Janesville, WI, where I come from, is about the same size as that city, so it is very easy for us to imagine what this means, and this is a legitimate need. This is a legitimate program for the government to step into and help these people.

But this is the dilemma. The dilemma is here. As we realize that we have a responsibility to help these people in North Dakota or Ohio, or where the flood victims are around America, we also realize our responsibility to the future of this country, our responsibility to our children to prevent this chart from continuing its growth of debt.

This is a very tough dilemma. We have a legitimate reason to spend money, to help people who are truly in need in this Nation. On the other hand, we have this responsibility to the future of America to stop the growth in

debt that is so clear in this picture, a responsibility to our children to make sure that this does not continue, so they have the opportunity to live the American dream that we have had.

What do we do about that? In Washington what is going on is they are proposing that we simply go and spend more money, that we spend $4.8 billion, add $4.8 billion to this debt legacy we are going to pass on to our children.

There is another alternative. We do not have to just go and spend the money. What we could do is go and spend the money to help those flood victims and find other parts of the budget that are less important, other areas we are spending money on and not spend that money.

Let me give an example of how this might work. Currently, today, the U.S. Government hires people to push elevator buttons for Members of Congress, so as they leave their office and come over to this floor to vote, they do not have to push the buttons in the elevators themselves. I find this a ridiculous expenditure of the taxpayers' money.

So rather than just going and spending this money on flood victims without finding other areas less important in the Federal budget, why do we not go and spend the money to help the flood victims who legitimately need it, and go to other parts of the budget and find ways to reduce spending to offset that legitimate expenditure to help flood victims?

The flood victims, I maybe understand this a little better than some other issues. My son happens to be going to school in New Ulm, MN. I know one night he called me up and said that that day he had been out filling sand bags to help protect that city in Minnesota from the floods that were coming.

This is a legitimate reason, and people in Wisconsin are willing to help other people around the country. I am willing to help people around the country. What we need to do, though, is go and find areas where we do not have to be spending the taxpayers' money, eliminate those expenditures, and redirect the money over here to the flood victims.

Make no mistake, that is not the current proposal. The current proposal is to simply go and spend more money, just let the debt keep growing, add it to the legacy that this generation is passing on to the next generation, and I say that is wrong and that is inexcusable. I say we have a responsibility to future generations of Americans, that if we are going to spend the money, we have to find other parts of the budget that we can reduce spending in.

The second reason I rise to speak tonight is with that growing debt picture looming, several other Members of Congress just ahead of me this evening talked about the Social Security issue. The second reason I am rising tonight is to speak to the Social Security issue, and exactly what is going on. The new report coming out today repeats how important it is that we solve the Social Security problems today, not in the future.

Social Security today is collecting about $418 billion out of the paychecks of Americans. Anybody who has a job today pays into the Social Security system. When they are all done collecting that money out of the paychecks, they are collecting $418 billion. They are writing checks out to our senior citizens of about $353 billion. That sounds pretty good. If you think of this as your own checkbook, if you are taking $418 into your checkbook and you are only spending $353, that is a pretty good setup. In fact, there are 65 bucks left in your checkbook when you are done. That is good news for senior citizens, that is good news for America.

The idea is this, that extra money that is left in the checkbook, the difference between the $418 they are collecting and the $353 they are paying out, that extra money is supposed to be set aside into a kitty, because not far down the road the baby boom generation gets to retirement, and they will not be taking enough money in to make the payments back to our seniors.

The idea is this: At that point in time the money is supposed to be sitting there in a savings account, so when there is not enough money coming in to make good on the payments, when there is not enough coming in to make the payments out to our seniors, they then go to that savings account that is supposed to be built with this surplus that exists today, the $65 billion.

I have good news for the seniors. If this were being run the way it is set up, the Social Security system is solvent and works all the way to 2029. That is the good news. The bad news is in Washington, DC, when they see this $65 billion, they do the Washington thing. I think anybody watching tonight, all of my colleagues, know what the Washington thing is to do. They see that $65 billion sitting there in the Social Security trust fund, and instead of putting that $65 billion into the trust fund, they put it into the general fund. They then spend all the money out of the general fund, leading us to the deficit.

There is another way to think of this. They take the 65 bucks, put it in their big checkbook, they then overdraw the checkbook, that is called the deficit, so they take this $65 billion, put it in the general fund, overdraw the general fund, and there is no money left to put actual dollars into this savings account that is supposed to be there to preserve and protect Social Security. As a result, at the end of the year they simply write an IOU, technically called a nonnegotiable Treasury bond, and they put that down here in the trust fund.

What does this really mean? This really means if you go and look at the Social Security trust fund today, that there is nothing in it except IOU's; that entire savings account that is supposed to be there to protect our senior citizens, there is absolutely nothing in this except a pile of IOU's.

I am happy to report this evening, and I am going to ask our colleagues to join it, and ask the people around the country to call on our colleagues and ask them to support this bill, the bill very simply is the Social Security Preservation Act. It is not an Einstein kind of bill. It is very simple and very straightforward.

It simply says that that $65 billion that is being collected to preserve and protect Social Security is to be put directly into the Social Security trust fund, instead of being directed into the big Government checkbook to be spent on other Government programs.

The bill is H.R. 857, and I strongly encourage our colleagues to join the 60 of us that have already cosponsored that bill; call, ask them to join us as a cosponsor of that bill, so as American people we can solve the Social Security problem and make it solvent.

Again, what that bill does is very simple. It is very simple and straightforward. It simply takes the money that is being collected over and above what is being sent out to our seniors in benefits and puts it directly into the Social Security trust fund. If that would happen, if that would happen, there would currently be $550 billion in the Social Security trust fund. That number would build all the way to $1.2 trillion by the year 2002.

Social Security would then be safe and secure for our senior citizens, but it goes beyond the senior citizens. People that are in their forties and fifties need to understand that if this bill is not passed, we are going to reach a crisis point sometime between the year 2005 and the year 2012. That crisis point occurs when there is not enough money coming in to make good on the payments, and there is no money over here in the trust fund to get the money to make good on the payments to seniors.

So from 2005 to 2012, what are we going to do as a Nation? We have a couple of choices. One choice is to go to senior citizens and say, we cannot make good on the promises that have been made to you regarding Social Security. I think that is a lousy choice. It should be ruled out.

A second choice, and now I am going to bring another generation in here, it is not only the folks that are seniors and the people in their forties and fifties, I am now going to talk about the young people and what this means to them, because the second choice when we reach that crisis point, 2005 to 2012, the second choice is to go to our young families and say, we have to take more money out of your paycheck because

we were not able to set the money aside when we were supposed to back in the 1990's. So the next choice affects our young people and affects them directly.

My oldest son is a sophomore in college. My daughter is a senior in high school. My youngest is in eighth grade. When I think about our kids and the time when they are going to be married and starting their own families, and all the other kids just like them across America, when I think of these kids, it is about the same time that this Social Security crisis hits.

I, for one, do not think it is responsible for us as a Nation to go blindly forward spending the Social Security money, knowing that in the near future our young families are going to be saddled with even more of a burden as we try to deal with this Social Security crisis that was supposed to be dealt with in the 1990's.

I think it is inexcusable that we do not pass the Social Security Preservation Act. Again, the Social Security Preservation Act is very important across all generations. Would it not be nice if there were really $1.2 trillion in the Social Security trust fund, and we had enough money there that we could go out and see our seniors and say, look, your Social Security really is safe? Here is the passbook savings account, here is the savings account to make sure you are going to get your Social Security check? Then we could begin the discussion of going to our young people and say, would you rather do something other than pay into the Social Security system?

□ 1715

Because, you see, if the savings account was there and we could genuinely go to our seniors and tell them their account was safe, we could then go to the younger people and ask them if they would like to do something different.

Very interesting thing happened the last couple weeks in my own family. My 8th grade son went out and mowed lawns this past summer. He earned 900 bucks mowing lawns this past summer, and it came tax time, April 15. I said: Matt, you have to fill out a tax return, you earned 900 bucks.

It turns out he did not really owe any Federal taxes for anything except Social Security. And when his tax return came back to him, his Social Security tax, being that he was self-employed, for earning $900 was over 120 bucks. So my 8th grade son was asked to pay $120 into the Social Security system, and he has no hopes whatsoever of seeing that money back.

The Social Security Preservation Act needs to be passed. It is a fairness situation. It needs to be passed in the very near future. We need to start setting this money aside so that our seniors are safe, so that the people in their forties and fifties are safe and so that the young people can start thinking about doing something different.

If we let this go, if we let this go in the 1990's and our generation looks the other way and continues doing the Washington thing and spending this money instead of putting it away, let the burden be on our shoulders when we have to go out to our families and ask to collect even more taxes than right after the turn of the century.

The issue gets even more interesting when you look at how the Social Security issue really impacts and affects the budget as a whole. You see, in Washington when they report the budget they report this blue area. In fact this year we are reporting a budget deficit of about $107 billion. What they do not tell you is that is how much the checkbook is overdrawn. Well, the checkbook is overdrawn by $107 billion but they wrote an IOU to the Social Security trust fund. So in addition to the deficit that Washington reports to the American people, they do not tell you that in addition to that they have taken the Social Security trust fund money.

The real deficit this year is not $107 billion. It is $107 billion plus the money taken out of the Social Security trust fund or in reality about 172 billion.

I come from the private sector. I am a home builder by trade. I have to tell you, if we tried this in the home-building business, not only would the banks reject our argument; I would be locked up in jail if I took the money that was supposed to be set aside for pension funds for my employees, spent it on other programs and put IOUs in their pension funds. It would be illegal in the private sector. It should be illegal here in Washington, DC. That is what H.R. 857 is all about. It makes this illegal.

Mr. Speaker, when people in Washington talk about balancing the budget, virtually all of America has now heard that the people in Washington are going to balance the budget by the year 2002. Virtually everybody in America has heard that that is going to be done. I think it is real important that we understand what Washington is talking about so we fully comprehend what Washington means when they say they are going to balance the budget because what Washington means by a balanced budget and what people in Wisconsin mean are two things different entirely.

When Washington says they are going to balance the budget, what they mean is they are going to get rid of this blue area; that is, they are going to get rid of that $107 billion debt. So let me make this as clear as I possibly can. When Washington, DC. says they are going to balance the budget by the year 2002, what Washington, DC. actually means is they are going to go into the Social Security trust fund, take out $104 billion of surplus that year, put that money in their checkbook and call their checkbook balanced. You see, in the year 2002, when Washington says the budget is balanced, they have still got the $104 billion that they are using out of the Social Security trust fund. That is inexcusable.

It does not have to be this way. The worst part of this whole picture is that absolutely it does not have to be that way. We have out of our office with the support of many groups here in Washington as well as many of my colleagues here in Washington proposed a budget that would stop this from happening. Our budget is very straightforward. It assumes CBO revenues. It assumes a revenue stream that is being estimated out here in Washington. It allows the American people to keep more of their own money putting $500 per year back into the pockets of our working families, per child. It allows for capital gains tax reduction, which is really a job creation bill.

It reforms the estate tax so that when people pass away they are not taxed on something they have already been taxed on. And at the same time, it sets aside the Social Security trust fund money. Now if that sounds too good to be true in a budget plan this year, the important thing to understand, as you, the American people, and my colleagues out there in all the districts they represent, the economy is stronger than anyone expected it would be. As a result of the economy being stronger, there is more revenue coming into the Federal Government than anyone anticipated.

Our budget, in a nutshell, accepts the President's Medicare proposals or at least the numbers that he has proposed and Medicaid and other mandatory but it throws out all of the new Washington spending ideas in the President's plan. It throws out all the new Washington spending ideas, in all fairness, in the Republican plans as well.

Mr. Speaker, our budget plan is very straightforward. We can balance the budget, set aside the Social Security money and we can do it if we simply say no to new Washington spending. When Washington saw these additional revenues coming in because the economy was doing so well, Washington again did the Washington thing. They looked for ways to spend that revenue and they proposed new spending programs. So instead of looking at this chart and saying, we need to set that Social Security money aside, instead of doing that, they came up with new ways to spend the money. Under our budget plan, we simply say no to new Washington spending programs, and in fact we can then get to balance without using the Social Security trust fund money.

One more thing that our budget does is very different than any other plan in Washington. After we get to a balanced budget, we cap spending growth at the

Federal Government level at a rate 1 percent below the rate of revenue growth. Revenue grows because of inflation and real growth in the economy. We cap spending increases at 1 percent below the rate of revenue growth. What this does is create a small surplus. If you are at balance, revenues go up by 5 percent, spending goes up by 4 percent; that creates a small surplus. That surplus is used to start paying down the Federal debt because, you see, even if we get to a balanced budget, we still have a $6.5 trillion debt hanging over our heads.

In our budget plan, we would literally pay off the debt so we could pass this Nation on to our children debt free by the year 2023, and then think what that means. That means instead of going to our families and collecting $600 a month to do nothing but pay the interest on the Federal debt, we would not need that money anymore. We could instead go to our families and say, keep that extra money. Go ahead. Put it away for your kids for college. Go ahead, put it aside if you want your kids to go to private school, go ahead send them there. Here is the $600 a month that you were paying in interest on the Federal debt.

This can all happen. It is not far-fetched. In fact, under that pay-off-the-debt plan, spending at Federal Government level would still go up faster than the rate of inflation. A lot of my colleagues do not like that, but the reality is even with spending going up faster than the rate of inflation at the Federal Government level, we would pay off the debt so we could have massive tax cuts. It is not only the tax cuts. That puts more money available out there in the private sector. More money in the private sector means looser money supply. Looser money supply means lower interest rates. Lower interest rates means our families can afford to buy houses and cars. And of course when they buy houses and cars, that means other people have to go to work building the houses and cars.

In Janesville, WI, there is a General Motors plant where we assemble Suburbans and Tahoes and Yukons. That is extra jobs for those people because of the interest rates down and people can afford to buy those cars that are being made. So it is a complete picture here of how we can restore this great Nation of ours. It can be done. It should be done. I just sincerely hope that the folks in Washington have the nerve that it takes to follow through on our commitment from 1994 to the American people.

I yield to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I thank the gentleman for talking on this important issue. In just listening to it, it sounds too good to be true. It sounds too easy to be true but actually it is not. You look at the numbers and they actually all add up. With somebody that has a grandmother that depends on Social Security, that depends on Medicare, that depends on the assistance that she paid into for so long and somebody that has parents and in-laws that are coming of age where they are depending on a solvent system, this makes too much sense.

How can we continue to steal from the Social Security trust fund money that they paid into the fund simply to balance the books, so called, balance the books? Balancing the books the way Washington defines balancing the books. This is a real crisis. You hear so many people making complaints, yelling back and forth.

We had a shameful episode over the past few years regarding certain people trying to scare senior citizens for their own political gains but it comes down in the end to numbers and to demographics. There is a saying that circulates around now that says demographics is destiny. With the case of Social Security, that is the case. Back in the 1950's, we had 15 people working for every one person on Social Security. Today we have four people working for every one person on Social Security. Twenty-five years from now, there is going to be one person working for every one person on Social Security. So we need to save every cent of this surplus. If we do not, the consequences are going to be absolutely detrimental.

A lot of times you throw numbers around like this and you throw charts around like this, and it makes sense to us; but I have had a couple people come up to me lately and tell me what all this means. One person came up telling me what the huge Federal debt means to us and adding onto that debt, what that is going to mean to us.

They told me that they had figured out that, if you made a million dollars every day from the day that Jesus Christ was born until today, a million dollars every day, you would not make enough money to pay off the Federal debt. A million dollars every day for 2000 years. And then they got their calculator out again and continued calculating. And they said: And then we figured out that, if you made a million dollars every day until the year 14,000 A.D., made a million dollars every day for 14,000 years, you still would not make enough money to pay off our Federal debt.

Mr. Speaker, and still we have people coming to this floor every day telling us what a great job we are doing in balancing the Federal budget and that the budget negotiations that are going on now are so difficult and we are doing such heavy lifting. Yet they are not doing anything. They are not doing anything that is going to address how we keep Social Security solvent, how we keep Medicare solvent, how we keep Medicaid solvent, and how we prevent our children from paying a tremendous debt. During the campaign I talked about this. And my opponent acted outraged saying: How dare you try to scare children, how dare you try to tell them that we are depriving them of their future. That would not happen in America.

I said to him: I have some very bad news for you. Not only could that happen in America, that is happening in America, and unless we get disciplined it will continue to happen in America.

The one number I gave him that I think carried the day in that debate was the number 89 percent. That number comes from BOB KERREY, a Democratic Senator's independent commission on entitlements back in 1994. The conclusion, using independent numbers, using Congressional Budget Office numbers was this: that if we continue down this path of tax and spend, tax and spend, tax and spend, that our children, your children, I have seen them, my children, my 9-year-old boy, my 6-year-old boy will be paying a tax rate of 89 percent to the Federal Government by the year 2025 when they are in their thirties. Barely my age, they will be paying 9 out of $10 in taxes.

Mr. NEUMANN. I was in an appropriations meeting today. I heard time and time again how we need to do this or that or the next thing to help the children of this Nation.

I just point out that, if we do not get to a balanced budget, if we do not do what is right to stop this growth of debt, the opportunities for the children of this Nation are going to go away.

The most important thing we can possibly do is make sure that we do get to a balanced budget so that the government is not taking all of this money out of the private sector that should be out there to keep the money supply available so interest rates stay down.

And make no mistake about it. I noticed in a newspaper on the way out here this week, the headlines, two sections, headlines were good news about the economy because the deficit was down. When the deficit is down, they do not take as much money out of the private sector. When the Government is not confiscating that money out of private sector, there is more money available out there for people to borrow. And when there is more money available, the interest rates stay down. When the interest rates stay down, people can afford to buy houses and cars. This is what we need to do for our children.

When the interest rates stay down and people buy those houses and cars, that means that there are job opportunities for young people right here in the United States of America, not the Government stepping in to take care of our children but rather our children having the opportunity to get a job and the opportunity to get a promotion and

to create a better life for themselves and their family.

That is what this ought to be all about. It is about whether or not the next generations of Americans are going to have the opportunity to live the American dream. It is about whether or not we in our generation are going to be able to fulfill our commitments to our seniors, my parents, your parents. It is about whether we fulfill those commitments to our seniors.

Most important, I have to say, it is about our children and our grandchildren. It is whether or not there are going to be American job opportunities for those kids when they reach the age where they are making a decision on where they are going to go.

In this day and age we live in, you can get from here to Japan or China, anywhere else in the world in a relatively easy manner on a plane. Those kids are going to have the opportunity to go elsewhere in the world. If we mess this up to a point where it is not affordable for them to live here in the United States, they are going elsewhere. Because kids are dynamic. This is a dynamic Nation. And for generations there have been entrepreneurs that have built this great country of ours.

And if we mess this up to the point where the tax rate is 89 percent of all of their earnings or to a point where interests rates are so high they cannot afford to buy a house or car, they will be in a different country and they will raise our grandkids somewhere else other than America.

□ 1730

That is what this is about. It is about getting our financial house in order so our children have the opportunity to live the American dream.

Mr. SCARBOROUGH. And if the gentleman will continue to yield, the gentleman talks about children, and I know he has seen and I have seen and others have seen people pile on to the floor over the past 3 years since we came here in 1994 and they talk about children. And Washington is great. Any time somebody has a program that they cannot pass on its merits, they put on the children's tie and they come out and start talking about how much they love children.

It seems to me that some of the people come to this floor so much talking about how much they love children, and they love children so much that the first pockets that they go to to pay for their new Federal Government plans are our children's pockets. We can make no mistake of it, they are reaching down into the pockets of my children, the gentleman's children, children from across America, and they are stealing more money from the pockets of our children.

That may sound a little bit blunt, but it is the truth. We have already stolen, this body over the past 40 years has stolen $5.6 trillion from future generations, and it is future generations that will have to pay that bill after the gentleman and I are retired.

Mr. NEUMANN. Reclaiming my time, I would say to the gentleman that we are about to do more of it. The supplemental appropriations bill, and I mentioned this earlier in the hour, is for a legitimate purpose, to help flood victims, those folks in North Dakota. They have a problem with the flood. It is real and it is genuine, and there are other people around the country that have real problems.

People in Wisconsin do not mind helping them, but when we are doing that, is it right that we take our children's money to help them, or would it be more fair to take money from our generation and help them? And we can do that by going to other parts of the budget and reducing spending elsewhere in the budget so we can help the flood victims.

But that is not the decision we are making in Washington. What we are doing in Washington is saying, forget it, we will add to the debt the kids will pay. We cannot keep doing that or the debt will get worse and the problem will compound itself to a point where we cannot deal with it any more.

That is a decision being made next week, and I sincerely hope my colleagues will join me in our efforts to make sure that rather than simply saying the flood victims need help, we have to help them, let us do it so that we will have our children pay for it; that instead of that, they will say the flood victims need help, let us do it, here is a less important Government program that we can cancel to help pay for the flood victims.

That is an entirely different concept. Right now we are intending to go to our children and say let the children pay, and that is just absolutely wrong.

Mr. SCARBOROUGH. I know that as a businessman, as a father and as a husband, there have been times when the family, we have put our families around the kitchen table, and I remember my parents did it when I was growing up, we do it at our home, and we look at the family finances and say, gee, we have these two credit cards and we are spending more money than we can afford to spend on the credit cards. And not only is it how much we are charging on the cards that we have to pay back, but it is the interest that keeps accruing, and we come to a decision as mature, rational middle-class Americans and we say, OK, listen, we are going to have to pay down these credit cards. We will have to cut a couple of them up, and we are going to have to spend only as much money as we bring in.

I remember looking at the wonderful example of my grandmother, who recently passed away, lived 93 years, and she raised a family of six in the Great Depression. That work ethic, that belief that one should never go into debt because there are disastrous consequences, that ethic was passed on to my parents, who passed it on to me, and I am just wondering when that ethic is going to infiltrate Washington, DC.

We thought in 1994 that the American people had sent a message, not a radical message, because radical, radical is a funny word. We were called radical because we believed in this: We believed that Washington should only spend as much money as it took in, and for that we were called radicals. We were called extremists. We were called reactionaries.

Let me tell my colleagues that where I come from a radical is somebody who believes they can spend more money than they take in, that a spending increase is called a spending cut, and that a spending cut actually amounts to a spending increase. And we heard all three of those arguments last year when we were told that a 7-percent increase in entitlement programs were massive cuts, when we were told that eliminating entire Cabinet agencies would actually drive up the debt.

I mean this was logic from people that have lived in never-never land for too long, and it was Alice in Wonderland-type reasoning and the type of reasoning that we came here to change.

Mr. NEUMANN. I was going to mention to the gentleman, he was talking about the values passed on to him by his grandmother and this concept that a debt is an inappropriate thing as one goes forward. This is more than an issue about numbers and whether we need to pay down the debt or balance the budget. It is an issue about morals, and it is one of many moral issues facing America today.

When a generation concludes that it is all right for them to spend the next generation's money, we have more than a numbers problem, we have a moral crisis facing America today. And this is just one part of it. The moral crisis facing our Nation is even bigger than what we are looking at here today.

I would go into one other area, but first I want to yield to my good friend from Minnesota. I would mention, however, that my son is filling sandbags over in part of the gentleman's district. I was just commenting that one of the districts in the gentleman's district was flooding and how important it is that we handle this issue properly here in Washington.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding. I just came from a meeting with our Governor and the rest of the Minnesota delegation to talk about what has been happening in our State. I think we all, from both sides of the aisle, and whether we calls ourselves liberal or conservatives, recognize that there is a need,

as the gentleman from Florida a few years ago can attest, when the hurricane came through southern Florida.

In some respects, my district has been spared all but just the edges of the serious flooding, but the folks up in northwest Minnesota, it is a devastating thing to have entire cities literally under water. And it is the kind of situation where who would have ever predicted that a relatively small river like the Red River would be 25 feet above flood stage.

So I think that we are going to do what we can to make certain we get the aid that we can to those people to begin to rebuild the infrastructure in those areas, but I think there is also a new ethic in this Congress, that we should figure out a way to help pay for that as well out of this budget. That is going to be tough.

I know that the gentleman is doing what he can on that front, because I think there is a different ethic, and we will have to say that some projects will have to be delayed because this is a much higher priority project.

I also want to, if I could quickly, talk about, and it is not just the people in my area, but I think this is an ethic of Americans all across our country. My wife told me that about 36 hours ago now one of the radio stations in my district announced a program to try to raise some money for the folks up in the Red River Valley and they set a goal of raising $10,000. I think my numbers are correct, that within 24 hours they already had pledges and cash totaling over $21,000. I think that is going to happen all over the upper Midwest. And we are demonstrating that charity begins at home and that we will find people willing to help out. I think that is a great thing.

In the bigger picture, I do not think we should say, well, this is a new program, we will just have to add more debt to our grandchildren. There are certainly projects still in the Federal budget that are going to be delayed, that should be delayed in order to pay for this, and we hope that we can figure out ways to offset that spending as well.

And I thank your son for being one of those who are volunteering on the sandbag lines. Literally there are thousands of volunteers from Wisconsin and Minnesota, the Dakotas, and all over the upper Midwest helping those people save their homes.

Mr. NEUMANN. I want to mention, and we have talked about this a little, how this is really a tough dilemma, because on one hand we have flood victims who are truly in need of help, and on the other hand we have the responsibility to the future generations as well as to our senior citizens to make sure we are able to fulfill our commitments to seniors and to Medicare and also our commitment to our future generations to not leave them with a debt so big they are paying 89 percent of their total income in taxes.

So what do we do in this type of dilemma? I will give my colleagues an example, because this occurred today. In the Committee on Appropriations meeting I suggested that rather than simply saying let the children pay, or do a spend-now-pay-later kind of idea, where the children literally get this $4.8 billion, $4,800 million passed onto their backs, that what we do is this: We, as Members of Congress, make a commitment, and our commitment is this, and do not laugh when I say this. Rather than have elevator operators, who sit in elevators and collect tax dollars, push elevator buttons for us as we travel from our office buildings to the House floor to vote, that rather than use the salaries for them, instead of asking our children to pay, we no longer have elevator operators push the buttons as we travel from one place to another in this community.

Many people in America do not realize this, but there are literally people that sit in the elevators and push the buttons so that Members of Congress do not have to push their own elevator buttons. So my suggestion was, why do we not take the money that we are using in those salaries, and those folks can be reassigned. I know them and they are very capable and responsible people, and they can easily be reassigned elsewhere as people retire, and so on, to fill the place of people who are retiring. So we take those folks that were sitting in the elevators, Members of Congress are perfectly capable of pushing their own elevator buttons, and they take that salary money and apply it to offset the cost of helping the flood victims.

Now does it not sound reasonable to my colleagues that instead of spending the money on elevator operators that we would help flood victims instead? And does it not seem reasonable that instead of passing this debt on to our children and simply going, let the kids pay, spend now, pay later, instead of letting the kids pay that we find things like the elevator operators that we can do without?

Certainly, Members of Congress, if they figured out how to get elected, are perfectly capable of figuring out how to push the elevator buttons. I have great confidence. I say that tongue in cheek, but the reality is I know that we do not have to spend $500,000 a year of the taxpayers' money on this particular topic in Washington, DC, and that money could be applied to help the flood victims rather than simply saying we are going to spend the money, let the kids pay.

Mr. GUTKNECHT. If the gentleman from Wisconsin [Mr. NEUMANN] would yield, I think that there are plenty of examples. The gentleman from Wisconsin has illustrated one. But I think perhaps even to the point, we are paying to rebuild villages and countries all over the world; and I think this is one example where we probably have got to rebuild some of our villages and our cities first.

It really is a matter of priorities. I applaud the Committee on Appropriations for what it is doing, but I do not think we should get away from the basic goal of balancing the people's books. Partly, as the gentleman says, it is a moral issue. It is not just an accounting exercise, it is about preserving the American dream for our kids.

Every time something comes along where we say we want to balance the budget but, we would balance the budget but, we have just got to eliminate those "yes, buts."

Mr. SCARBOROUGH. Mr. Speaker, I heard the gentleman from Minnesota [Mr. GUTKNECHT] say that charity begins at home. I believe that the ethic that the gentleman was talking about and that my colleague, the gentleman from Wisconsin [Mr. NEUMANN], is talking about also begins at home, that we, as Members of Congress, should save this country $500,000 by pushing our own elevator buttons for automatic elevators.

Let me take it a step further. I certainly hope I do not make some fellow Members uncomfortable, but we had quite a showdown a couple weeks ago because we believe that this Congress should abide by the same rules that middle-class Americans abide by; and if you do not have money, if you are $5.4 trillion in debt, then you do not raise the spending for your own committees and for your own appropriations.

That is going to be a pitched battle. I have seen some reports in the paper today that I know have to be inaccurate that talk about how our leadership is actually going to some of the most liberal Members in this House in trying to strike a deal because they are so desperate to get committee funding increased that they would rather deal with those that spin us into debt for the past 40 years instead of talking to those of us who believe that one only spends as much money as one takes in.

I know that those news accounts are inaccurate. I have full confidence in it. I know that our leadership is going to come back here and they are going to say, if we want the American people to only spend as much money as they take in, then we are going to live by those rules ourselves, that the ethic that got us through the Great Depression, the ethic that got us through World War II, that made America the last great hope for this dying world, that we will live by those same rules.

Mr. NEUMANN. Reclaiming my time, is it not nice to have confidence in the Republican leadership to know that Republicans do not stand for increasing the size of Washington committee staffs; Republicans stand for making

Washington smaller and less intrusive in our lives?

So certainly, Republican leadership is not going to bring us a bill with a 14½-percent spending increase. Republicans stand for getting to a balanced budget. That was our issue a long time ago. We really do mean that we want to get to a balanced budget.

So I know that our Republican leadership is not going to allow a bill to come to the floor of the House that spends now and passes the spending debt on to our children, the spend-now-pay-later plan of spending $4,900 million of our children's money.

□ 1745

I know our Republican leadership understands that we have to go elsewhere in the budget and find wasteful spending to offset this new spending for a legitimate reason.

Mr. SCARBOROUGH. If the gentleman will yield, of course, they would have to. Because how could one say on one hand, we have got to balance this budget, we have got to get by on less, we have got to freeze discretionary spending, and then turn around and increase your own budget by 15 percent? These are some very intelligent people, and I have confidence that the same fire that brought this party to a majority in 1994, the same visionary leadership, the same visionary courage that had men and women across the country saying we will live by the same rules that middle-class Americans live by, that sounds so simple in Washington, DC. I know they are not going to back down now. Because to do so would be sending a dangerous message, and I know they are not going to do that. I am glad to be a member of a party that has such courageous leadership.

Mr. NEUMANN. I yield to the gentleman from Minnesota.

Mr. GUTKNECHT. To change the subject slightly, there was a Pepsi commercial that used to say life is a series of choices. And really Congress is about making choices. We may have to have some different priorities. It may mean that we will have to delay the purchase of some of the B–2 bombers. It may mean that we are going to have to pull our troops out of Bosnia sooner because we simply cannot afford $2.5 billion a year to keep troops in a country that may or may not ever be at peace with itself.

There are a lot of choices that we are going to have to make in this Congress, and they are not easy choices, but I hope that we will not say to people, whether it be in Grand Forks, ND, or East Grand Forks or some of those people who really are suffering that we are not going to help you.

I really do think we have to help those people, but then we have got to make the tough choices. And as I think what you are saying is, Congress has got to lead by example as well. We are going to have in the next several weeks a number of tough choices. I would hope that within 2 weeks, this House will have on the floor a budget resolution which will be the blueprint. Hopefully, it will be an agreement between the White House and the Congress. And there are negotiations going on, and we hear rumors that one day they feel like they are close, the next day they are far apart. We really don't know, and they have been very tight-lipped about what exactly the terms and conditions are that are on the table.

But we hope there will be an agreement between the White House and the Congress on a budget resolution. But even if there is not, this House is going to have to pass a budget resolution very soon and it is going to mean some tough choices. We are not going to turn our backs on people, and particularly Americans who are desperately in need and then say to other countries and other people around the world, well, sure, Uncle Sam will be there to bail you out.

So we are not going to turn our backs on those people who are suffering in the United States and continue to provide unlimited foreign aid to some of these other nations.

Mr. SCARBOROUGH. If the gentleman will yield, he brings up a good point. We talked about Congress negotiating with the President. Obviously, we negotiate with the Senate also. Let me just say this: This is something that gets lost in all the discussions about the budget.

The Constitution says that this body, the people's House, as the Speaker says, this body that is closest to the people has the checkbook. And so we have to stop pointing our fingers at the Senate, we have to stop pointing our fingers at the White House, and we need to recognize that we have the checkbook, that all spending originates here, all bills that have anything to do with spending originate here, and so we have the ultimate responsibility.

We have got to take personal responsibility for that instead of turning and whining about how the Senate moderates everything or how the White House is addicted to spending. Whether that is true or not is completely irrelevant. We have the checkbook in our hand. If we have a checkbook in our hand and our children come up and say they want to spend money on Nintendo games or they want to spend money on a trip this summer, they want to go to Disney World, if we do not have the money, we have the checkbook in our hand, and if we go ahead and write a bad check to our children just because we are afraid of the consequences, then we have no moral courage and do not have the moral fiber that we have to have to make the tough decisions. We need to always remember that. Unfortunately, it seems to me at times that Congress has forgotten that.

Mr. NEUMANN. There is one thing the gentleman from Minnesota mentioned; priority spending. There is kind of a myth going on out here in Washington DC, and I noticed it at our town hall meetings, we just held about 20 of them. The myth has really penetrated to the public that they believe defense spending has gone straight up and very, very few people in this Nation recognize the fact that defense spending has actually dropped, in actual dollars spent, dollars written out of the checkbook from $300 to $266 billion a year from 1990 to 1996.

In real dollars, it has gone down even more. In real dollars, that is dollars adjusted for inflation, it is comparable to a drop from $325 to $242 billion over that 6-year span of time.

The other thing that is out there kind of as a myth is that with this defense spending increase, and we are cutting all these other areas in Government. Well, the reality is that is not true, either. The reality is these other areas called nondefense discretionary spending have risen dramatically from $165 billion in 1986 all the way up to $268 billion 10 years later. So over a 10-year period of time, it has nearly doubled, in spending in these other areas called nondefense.

Everybody blames Social Security and Medicare and all of that stuff for rising too fast. The reality is it is not just there. It is these other programs, too, that have gone up by over $100 billion over that 10-year period of time. I, for one, would just take the opportunity when you mention priority and spending to work again to dispel the myth that somehow defense spending is the cause of the problem.

In fact, defense spending has dropped over the last 10 years in either real dollars or actual dollars coming out of the checkbook. I think it is important, because the threat is growing around the world. We do need to maintain our defense.

Mr. SCARBOROUGH. If the gentleman will yield quickly, a couple of quick numbers. We are spending less on defense today per ratio of how much we have at any level since 1939, before World War II and Pearl Harbor. The dire consequences are these: We have enlisted men and women who are on food stamps. We have promises that are being broken to our military retirees and our veterans. We cannot sustain the continued cuts unless we want to face dire consequences in the 21st century.

We have to be concerned about a system that allows men and women that are protecting this country to live on food stamps. The quality of life right now for men and women in the armed services is absolutely dismal, at its lowest level ever.

Mr. NEUMANN. I would just add in the defense area that defense is not above wasting some money either and

certainly is subject to our review as we find areas of waste within defense so that those dollars can be reallocated and better spent for the defense of this Nation.

Mr. GUTKNECHT. If the gentleman will yield, I would make this point as well. We heard a lot about when we won the cold war, and frankly, I think sometimes we are too timid to say, we won the cold war. The military buildup of the 1980's was perhaps, in my opinion, one of the greatest investments in the history of human beings because we literally won the Third World War, the cold war, if you will, without firing a shot. It was because of the buildup. Now, we are seeing some of that peace dividend.

Real defense spending has dropped by over 30 percent in the last 5 years. A lot of people talked about the peace dividend. But I think most of us would agree that that peace dividend ought to go to our children rather than go into even higher domestic discretionary spending. Unfortunately the gentleman from Wisconsin is absolutely right. What we have seen is dramatic increases in domestic discretionary spending along with entitlements as defense spending has come down. But let me just say this, too, and I think this is an important point, and we should have a healthy debate about how many B–2 bombers we really need. The gentleman from Wisconsin may disagree with me and the gentleman from Florida may disagree with me, but I think we probably have enough B–2 bombers. But let us have that debate. Even within the Defense Department, whether or not we need to move ahead with some of the other new weapon systems or if they can be delayed. We live in a relatively safe world. I do not want to cut defense irrationally, but on the other hand I do not think any area of the budget should just be rubber-stamped by this Congress. As I say, we have got to set priorities and clearly at this point in time one of those priorities has to be people who are hurting in disaster areas such as northwest Minnesota.

Mr. NEUMANN. We are nearing the end of the hour that we have reserved to us this evening and I thought I would bring the discussion kind of back to where we started, and that is this picture that shows the growing debt facing this Nation of ours and maybe talk a little bit about an issue that is very important, that is probably not now coming to the floor of the House but we hope it does in the future, and that is the balanced budget amendment. I have had a lot of people in our town hall meetings again asking me the question, "Do we really need the balanced budget amendment?" I have been asking those people back when they ask me that question, I just point to this chart and point to the growing debt, and then I ask them, if we did manage to get to a balanced budget in 2002 and let us be optimistic and say we got to a balanced budget without using the Social Security trust fund money, we got Washington to stop spending the Social Security trust fund money, we got the job done. Do you really think that in 2003 they would balance the budget again? Or do you think we would go back to our old ways? And even if we managed to do it in 2002 and 2003, how long would it take before they went back to their old ways of this growing debt?

That is why a balanced budget amendment that has failed by one vote three times in the Senate of the United States is so important. I hope on the other side they decide to bring it back again and get another vote on it so that we have what Wisconsin already has in its constitution, a requirement that we do not spend more money than we have. It is not about a balanced budget. It is about our children's future and whether or not they can hope to have a future in this great Nation of ours. Without a balanced budget amendment even if we manage to get the job done by 2002, we have those after years, 2003, 2004, 2005, 2006, and so on to worry about. Fixing the problem temporarily by 2002 is not going to solve the long-term problem without the balanced budget amendment to the Constitution.

Mr. GUTKNECHT. As I have said before, and one of the things I really like about the budget plans that the gentleman and I have worked on, and frankly the gentleman from Wisconsin has done a lot more of the work than I have, but as a famous architect from Chicago said, "Make no small plans." I think we need a big vision, and I think the vision should not be just to balance the budget by the year 2002. I think the real vision and the real goal ought to be to pay off that national debt. As the gentleman says, and I certainly agree, I can think of no better thing to leave our kids than a debt-free future. We have an opportunity to do that if we will exercise the discipline this year and every year. As we have said before, balancing the budget is not something you do next year. Balancing the budget is something you do this year. It is something you do every day. That is why as we look at this supplemental appropriation, I hope that the gentleman is successful in the Appropriations Committee to make certain that we set those priorities, that we rearrange some of the budget so that we can take care of those people who are hurting and needing in certain areas of our country and still stay on that glide path to balancing the budget.

Mr. NEUMANN. Would the gentleman not say that is also true of the Social Security issue? The issue where the Federal Government is collecting out of paychecks about $65 billion more than it is paying back out to seniors and that that money is supposed to be set aside in the savings account but Washington is instead spending that money? Is that not a day-to-day struggle also to prevent Washington from spending that money?

When Washington talks about getting to this balanced budget in 2002, we cannot accept getting to the balanced budget by going into the Social Security trust fund and taking that money out, taking $104 billion out of the trust fund, putting it in the checkbook. That is not good enough. That is not really a balanced budget. Is that not what this fight is about day to day out here to stop Washington from spending that Social Security money, get us to a balanced budget but do it the right way without using the Social Security trust fund money to get there? Are those not the battles that we are engaged in out here day after day after day in this city?

Mr. GUTKNECHT. We are certainly in a wonderful position. We are given a golden opportunity. We are at relative peace and relative prosperity here in this country. If we cannot balance the budget and save Social Security now, I do not know when we will.

Mr. NEUMANN. I thank the gentleman. I would conclude tonight with a very optimistic picture for the future of this great Nation that we live in. We have it within our grasp, within our means, within our understanding to do what is right for the future of this country. We have laid out a plan that gets us to a balanced budget by 2002, lets the American people keep more of their own hard-earned money, sets aside the Social Security trust fund money that estops Washington from spending the money that is supposed to be in the Social Security trust fund and at the same time looks past the year 2002 to 2003, 2004 and beyond, looks at paying off the Federal debt so instead of taking $600 a month from our families of five in America, that instead of doing that to just pay the interest on the Federal debt that we can look at the families keeping that money, using it for education, using it for things that are so important in our families in America today.

We do have a big vision for the future of this great Nation we live in. It includes a balanced budget, it includes protecting and preserving Social Security and fulfilling our commitment to our seniors in Medicare. It includes letting the American people keep more of their own hard-earned money. There is just no reason not to look past that and look to the big picture and say, yes, we can pay off the Federal debt and, yes, we can get to a point where our people do not need to pay $600 a month to do nothing but pay the interest. Let our families keep that money in their own pockets to spend in the way that they deem most appropriate instead of sending it out to Washington

to do nothing but pay the interest on the Federal debt.

I see a very bright future for America because if we manage to implement these sorts of plans, that means the Government is going to quit borrowing the money out of the private sector, leave the money in the private sector. When there is more money in the private sector, that means the interest rates stay down and when the interest rates stay down that is a bright picture because then people can afford to buy houses and cars and all the other things that they do when the interest rates are low, and that means somebody has to build those houses and build those cars and that is job opportunities for the young people in this great Nation that we live in. These are our hopes and dreams for America's future. God bless you all.

□ 1800

RED RIVER VALLEY FLOODS

The SPEAKER pro tempore (Mr. MICA). Under the Speaker's announced policy of January 7, 1997, the gentleman from North Dakota [Mr. POMEROY] is recognized for 60 minutes as the designee of the minority leader.

Mr. POMEROY. Mr. Speaker, my remarks tonight have nothing to do with political party or political ideology. In fact it has rather to do with something much more basic than that, disaster of an unprecedented character that has inundated the second largest city in the State that I represent, the State of North Dakota, and caused hundreds of millions of dollars of damage up and down the Red River in light of the disastrous floods we continue to experience. During the next few minutes I want to brief my colleagues about what brought this about, what weather circumstances were out there that caused flooding of this unprecedented character.

Mr. Speaker, I want to tell my colleagues of the preparations made to fight the flood, because I think it is important that they understand we did not just sit and give way to the river. In fact, this is only the final stages of what had been a heroic several-week period of frantic effort to beat these waters back. I want to tell you, sadly, about how the battle for Grand Forks was lost and how the city has now been totally inundated and the consequences of it. I want to bring you up to date in terms of how people are coping with this disaster and assess finally where we go from here.

First, what brought all this about? Well, this has been one winter for the books in North Dakota. We are used to tough weather, we pride ourselves on it, but this year we had an unbelievable series of first occurrences, more snowfall than ever, worse blizzards than ever, a 50-year storm on April 8, only now not quite 3 weeks ago, dumping more snow on already land that was just buried in snow. We had the first Presidential disaster declaration issued statewide for a snow emergency.

Now very unusual to have a snow emergency, but in this circumstance we literally could not deal with the volumes of snow on our roads that were impeding access, critical access, to medical facilities and the like for the citizens of North Dakota, as you know many scattered about on the farms and remote smaller towns across the State. We needed more help in keeping our access to the facilities, and that is why as we coped with the snow, the Presidential declaration issued statewide had become acquired.

I think that we would have been OK but for the blizzard of nearly 3 weeks ago. The meteorologist tells us that this storm alone was a 50-year event, worst storm in 50 years.

So you take a situation where the land has been saturated with wetfall, covered with more snow than we have ever had in the history of recording snowfall in North Dakota, and add to it the worst blizzard in 50 years, and you had all the elements for a true disaster.

As the snow started to melt, we began to see in the rural areas just what we were up against. This picture shows what we have seen across an awful lot of rural acreage in North Dakota, standing water of flooding proportion and the small tributaries which carried it to the major river arteries also flooding. As the floodwater went from the rural reaches to the larger rivers, the flooding accelerated.

We began with the State really following the blizzard of nearly 3 weeks ago, the April 6 blizzard, in a virtual deep freeze. In fact we had some tragic loss of life due to exposure the second week in April as the State coped with freezing temperatures and power outages. As the weather warmed up, at last, and all the snow melted, the water really started to flood.

Now we thought we were ready for the floods that we knew were to come. The Weather Service had given us early forecasts predicting severe flooding and giving us specific numbers that allowed the Corps of Engineers to begin the work on the dikes for these cities literally weeks earlier than had ever been attempted before. By the time we came into the month of April, millions of dollars had been spent elevating the levees and getting them ready for the flood water that we knew was to come.

General Furman, the head of civil works for the Army Corps of Engineers, surveyed the preparations and indicated that he thought this represented the very best advanced measure work the Corps of Engineers had ever attempted, the best effort to stop cities from flooding represented in weeks of frantic activity, activity including the movement of massive amounts of clay and dirt in earthen levees at the citywide level and then, as individual homeowners prepared, literally millions of sandbags, an estimated 6 million placed in Grand Forks alone, put in place bag by bag by bag, with the countless hours of hundreds and then thousands of volunteers.

The floods impacted in particular the Red River Valley and caused us the most severe flooding that we have had to deal with, and the Red River is somewhat unique in North Dakota; it flows north. This is an unfortunate character for a river in the north country because you take water in the south and you send it into ice in the north before it is melted, frequently resulting in ice jams and exacerbating the flooding problem. All up the Red River Valley the cities have had problems; Wahpeton having their crest occur literally in the height of that April 6 and 7 blizzard, people enduring ice and snow to place urgently needed sandbags in dikes that were just about to give way. Wahpeton fared relatively well through the flooding crests that they sustained. Unfortunately, their sister city, Breckenridge, MN, did not fare as well, and there have been hundreds of homes flooded in that city.

North flows the river. As the problem eases in Wahpeton, the problem grows for Fargo and Moorhead. Frantic efforts have saved most of those cities, although dozens of homes have been lost in that fight as rural houses could not be protected and as urban ones in some neighborhoods gave way. Urgently constructed secondary dikes prevented much greater flooding in that area.

Coming now to Grand Forks, certainly the greatest loss we have sustained in the flooding, the river running now at 54 feet. That is over a flood stage of 28 feet and over a normal elevation for that river of 16 feet. A river that on a summer day is 16 feet deep is 54 feet deep as it rampages through the neighborhoods of Grand Forks tonight. This is several feet above the forecast. In fact, it is entirely possible that inundation would not have occurred had we prepared for a height of this magnitude. It is by a factor of several feet the highest flood ever reported in Grand Forks, ND, and they did not have the dikes constructed to the level to deal with it. Frantic and truly heroic efforts made in the final hours of the fight to get the levees up with the rapidly increasing height to the river unfortunately were unsuccessful.

The general river flows in Grand Forks normally run at about 5,000 cubic feet per second which is how they measure river flows. The water flowing by Grand Forks today is 110,000 cubic feet per second, 22 times the normal rate of flow, which gives you a very good idea about the amount of water in the Red River system that is funneling by Grand Forks and inundating that

city and threatening two cities to the north, Drayton and Pembina, as the river crests continue to work their way north.

Unfortunately the battle for Grand Forks, as anyone knows who has seen the television footage, was lost. It is a very flat city and the dikes were not capable of being lifted to the final elevations the floodwater required. As the dikes gave way and the streets in the lowest lying parts of town began to be inundated, they flooded also the city's storm sewer system. A storm sewer system very efficiently takes runoff water from city streets to the river when the river is at its normal elevation, but in this flat city when the river is at an elevation that is higher than the city streets, it just as efficiently transfers the water from the river throughout the neighborhoods. That is why only 1 in 10 of the flood victims in North Dakota had flood insurance. The great majority was well outside the 100-year flood plain, but water came charging through the storm sewers and bubbling up through the manhole covers on every corner slowly but surely inundated virtually 90 percent of the city of Grand Forks.

There were some very dangerous periods during the loss of the city of Grand Forks. There were evacuations occurring in the dead of night, people forced to leave their homes with the possessions that they had on their backs in advance of the flooding waters. Others had slightly more time.

I watched the Red River High School serve as an evacuation center, and I will tell you it looked something like you might see out of a war zone. People, evacuees from the city I know so well coming flooding into the school and being routed on to schoolbuses and sent to the shelter at the Grand Forks Air Force Base, all keeping them out of harm's way and the ever-rising waters.

The hospital for the city that had 200 patients, many of them critically ill and in intensive care, had to be evacuated as their water system became polluted. People were med-evac'd to hospitals throughout North Dakota and Minnesota. Fortunately all of that transfer occurred with no loss of life. All of the evacuations occurred with no loss of life.

The University of North Dakota, the largest university in North Dakota, a school of 11,000 forced 3 weeks before the end of the semester to just shut it down. The president of that university indicated to the professors: Give your students the grades they have earned to date or give them incompletes, but we are done with the semester, there will be no commencement, school is out, school is over, get your students out of town.

All of this occurred as the water rose, and the next two charts I would show you go to show you the dimensions, the depths of the water that especially the lower lying parts of town had to contend with, yet again more than 90 percent of the town ended up being inundated.

This is a home that has been in the water a day or two, and as you can see it is literally floating. Houses will float, and so these houses, a number of the houses, will be totally wrecked as they floated off their foundations, as the one in the picture illustrates.

This shows a line of cars, people forced to leave their houses so quickly they could not even get their vehicles, and those vehicles have been bobbing like toy cars and trucks on the streets as the water has so completely inundated them, as you can see.

Just when we thought it could not get any worse it got worse. A fire broke out that ultimately claimed 11 of the major buildings in the downtown intersection. This picture shows the first building to go into flame. They believe the cause of it was broken gas pipes. I talked to a fireman that was down fighting the fire, and he says, you know it is ironic, but a fireman's best friend is water. Water is a critical element we use to control fire. And yet we could not fight this fire because there was too much water, too much water on the street to get our equipment down, and they literally dove under water trying to locate hydrants to hook up their hose, and when they finally did get their equipment moved in rough proximity to the fire, got their hoses hooked up to the hydrants, the city's water system had been so badly damaged that there was no pressure for the water to fight the fire. Ultimately it was fought by air, Forest Service planes dropping a fire retardant on it and a Coast Guard helicopter using a device that was capable of bringing river water over the flame ultimately controlled it again after 11 buildings were lost, buildings including the Grand Forks Herald, the city's newspaper, one of the State's largest newspapers as well as a major bank and other major commercial buildings in downtown.

The devastating aftermath is revealed in the next two pictures I have. You have a city that one person called it a mixture between Venice with the water and Berlin with the charred remnants of buildings. This is the scene today, a scene that has been widely reported in newspapers across the country and across the world reflecting the extent of the devastation that Grand Forks, ND has had to cope with.

□ 1815

The loss is as comprehensive as it is horrific. I mean, this is a God-awful scene, but just as God-awful is the fact that this disaster has touched virtually everyone in the community. I was there last weekend, and for an example, on a boat ride, as we toured the devastated downtown, the photographer taking pictures said, as we passed the newspaper, I might get a little emotional here. I asked him why in particular. He had lost 25 years of negatives in the fire at the Grand Forks Herald, all of his life's work reflected in his negatives, all of them torched and left without one in that fire.

Later that afternoon I was on a street assessment looking at areas of town that had not yet been evacuated and the determination being made whether or not they needed to be evacuated. The policeman that was with me on that assessment had already lost his home, and the city attorney's home was subject to imminent threat and has now also been inundated. The mayor of Grand Forks, Mayor Pat Owens, a woman who has shown such tremendous character and courage in the face of this disaster had, all the while she maintained her public leadership, faced deep personal challenge. She had a 92-year-old father that she could not get to leave his house even though he was being flooded. He finally agreed to leave when necessary and agreed to take his dogs along. Her own house, aside from worrying about her father, was also lost.

When I flew out Monday morning from Grand Forks, the people at the Northwest Airlines ticket desk were unshaven and unshowered, not surprising, given the fact that there is no water in Grand Forks. They indicated that to a person, the people at the counter had each lost their homes. Their families had been evacuated. But they said it could be worse, we still have employment.

The telephone company is the only operating business in Grand Forks today, and it is operating because it is completely sandbagged. Crews are working around the clock pumping out water and actually using blow dryers to keep the cables dry. Boats bring in supplies to maintain the 24-hour shift.

The Grand Forks Herald, I believe, is a real example of just the courage of this community in coping with the disaster.

Mr. Speaker, the city is presently publishing in a school north of town. The paper is being printed in St. Paul and flown back for distribution in Grand Forks free of charge so that people can track the information, and there is no advertising revenue in these newspapers supporting this city effort.

This column, "The Day That Changed Everything," was literally written by the editor as the newspaper building burned and destroyed completely that newspaper. The community, being desperate for news, continues to benefit from the heroic efforts of the Grand Forks Herald and its staff, and I really salute them for their effort.

Mr. Speaker, the community response to this disaster has really been overwhelming. The Grand Forks Air

Force Base, the major Air Force base 13 miles out of town, has brought resources to bear that have been critical to our getting through this. They took a massive three-bay hangar and turned it over as an evacuation center, housing up to 2,500 evacuees on cots; not very comfortable cots I know, because I slept on one Saturday and Sunday night in that shelter. But the hospitality, the friendliness, the support of encouragement provided by the men and women of the Air Force working at that base was something to behold. They have done a tremendous service and shown what an essential part of our community they truly are.

Families throughout the region, both in North Dakota and the Minnesota side, have phoned into radio stations with the most unbelievable offers you have ever heard on the air: We have a home. We have room, we have a spare room, we will take a family. We have a finished basement. We will offer to house a family for the duration, until they can get back into their home.

Can you imagine in some of the areas of this country people turning their homes open to total strangers for a period of time that is anything but certain, but could literally run weeks, if not more than a month? Well, that is what happened in great number in North Dakota. As a result, the number of people having to spend the entire duration of the evacuation period in that Air Force base has now dropped to under 300 as people find more comfortable shelter with friends, relatives, or these wonderful volunteers taking total strangers into their homes and into their families.

The mayor, I believe, put in perspective what has happened to Grand Forks. She said, we have suffered a disaster. Our hearts are broken, but we will get through this. It could be worse. Property, as difficult as it is to lose precious, lifelong possessions, can be replaced, homes can be rebuilt. But to date, we have come through this disaster without a single loss of life, and life is truly irreplaceable. That record held and held again today in Grand Forks, and let us all hope and pray that that continues to be the case, and we will avoid the ultimate disaster, loss of life, in this flood.

Well, where do we go from here? I will tell my colleagues where we go. We pull together and we build back. The local support has, as I mentioned, been absolutely amazing. And what North Dakotans have seen I think to their amazement over the last several days is the extent of national support that has been extended. There are innumerable stories I could tell my colleagues, corporate and individuals from across the country reaching out and assisting. AT&T put free phone lines immediately into that shelter, for example. Life USA Today Insurance Co. called me in my office yesterday and said, how can we help? Can we send cash, can we send people up and help clean out? Anything we can do, let us know. The AFL-CIO has contacted me and said, we want to help. We have people that lost everything they have. Do you have ways you could suggest we can help? Money or trade skills as we build back?

I think, making it real personal, something happened in my office this morning that took me by surprise and was incredibly special to me. I saw a fellow I had not seen before, a boy with him. I figured maybe they were from North Dakota visiting the Nation's Capital. But no, they are people that live in the area, and the 7-year-old wrote this note that he wanted me to share with the people of Grand Forks. To the children of Grand Forks:

> My family and I survived Hurricane Andrew 5 years ago in Florida, and I know that all of you will triumph over these floods of 1997. Accept these small gifts, and good luck to all of you. Peter Boyce, 7 years old, Jamie Elementary School.

Well, Peter, his father went on to explain, insisted that they pull together some bottled water, took the canned goods they could spare, and they brought them up, two boxes full. And I am under instruction from Peter Boyce to get those to the children of Grand Forks.

That is just a perfect example of how people have reached out. There are 1-800 numbers established, which I do not believe protocol allows me to share with you on the floor. But the Red Cross has an 800 number, and in addition there is a 1-800 number set up through FEMA, the Federal Emergency Management Agency. And any of my colleagues that might like to individually provide that kind of support demonstrated by the gesture of Peter Boyce, I would urge you to contact those numbers.

In spite of how touched we are with this national outpouring and the charitable outreach of thousands of Americans across the country, a number that I believe is going to even grow larger, we need the help of the Federal Government. I will tell my colleagues why we need the help of the Federal Government. It is kind of illustrated by a true story that occurred as the dikes were giving way. An engineer for the Corps of Engineers, a very talented woman engineer that had been there for all of the building of the dikes, she was frantically looking at her topography maps, looking for a secondary line of defense against the flooding waters. And she was crying and she said, there is no high ground, there is no high ground.

Well, unfortunately, that is the case in a figurative way with the status of the city of Grand Forks right now. There was not a part of the community left untouched, nothing to build upon. The financial community, devastated. The university, sent home. The business community, under water and then aflame. We are going to have to completely rebuild this community, and it is going to take all of our help and all of our work.

There have been some wonderful things that have occurred this week. The President came to Grand Forks, ND, and if my colleagues could only have seen what he did for the morale of the people spending the nights in the shelter. He told them: You are not in this alone. We are standing with you. And it meant an awful lot.

The President returned and within 1 day of his return sent to the Congress an amendment to the supplemental appropriations bill requesting an additional $300 million for relief in the Grand Forks area. The House Committee on Appropriations marked up this morning, a markup that convened 6 days after the dikes breached. They indicated that they also wanted to help and passed $210 million of relief on the $488 million that was in the additional relief package, bringing the total, not just for Grand Forks, but for North Dakota, Minnesota, and South Dakota, to $698 million. The chairman said it right when he announced to his committee members this morning: This is not enough. More will be required, but we are still assessing the damages, and this is a place to start.

Disasters know no partisan lines, and I am very pleased to announce on the floor this evening that Speaker GINGRICH will be visiting Grand Forks, ND, tomorrow, late afternoon, touring the devastation. The gentleman from Texas [Mr. ARMEY], the House majority leader, a North Dakota native himself, will be touring the area on Monday, all to learn more about the extent of the devastation we have experienced and to be prepared to help.

Ultimately, the Federal resources will be a critical part of our rebuilding. But even more critical than that and more fundamental than that is the tough character, the tough and resilient character and the optimism in the face of all odds of the people of North Dakota.

I would close with my comments before yielding briefly to the gentleman from South Dakota [Mr. THUNE] who in his State also has suffered a disaster, and he will tell you about it. But I want to close with this story I think reflecting the resilient character of the people of North Dakota.

As I mentioned earlier, I spent Saturday and Sunday night with the evacuees in that Air Force hangar. On Monday morning as I got up to go to the airport, it was about 5:30 in the morning, and in a hangar full of more than 2,000 people you are always going to have some people milling about. Even that early hour I noticed two women about 70 years old walking around. I went to visit with them a little. I was

amazed at how good they looked. Their hair was all fixed, they were presenting themselves very, very well, especially given the fact that they were staying in a hangar and it was 5:30 in the morning. Out of my surprise I said, you look great. And one woman replied: Well, of course; some of these soldiers are really good-looking.

I think that underscores the unquenchable optimism of the people of North Dakota, and with the help of the Federal Government and with the help and prayers of the American people, we will be back and we will be back bigger and better than ever.

Mr. Speaker, I yield to my friend and colleague, a freshman Member who distinguishes himself with his conscientious service to his State of South Dakota, Mr. THUNE.

Mr. THUNE. Mr. Speaker, I want to thank my good friend and colleague from North Dakota, Mr. POMEROY. I would like to echo many of the sentiments that he has just expressed, because I too have seen what he has seen firsthand. I had the opportunity earlier this week to view the damage in Grand Forks, ND, and it truly looks like a war zone. It is a city that has been utterly decimated. As we flew over it and saw that the entire area was just engulfed and consumed in water and the burned-out buildings, it looked like a scene from a World War II movie.

□ 1830

They have a tremendous challenge ahead of them, and it is one that is going to take all of us working together to see that we get North Dakota and South Dakota back on their feet.

I never thought that I would be saying after the winter and spring we have gone through in South Dakota that we are fortunate, but in this particular case, we are. After having seen what North Dakota is going through, some of our State's problems do not seem quite as big as they once did.

Nevertheless, we have had what has been an unprecedented weather circumstance in our State. Conditions this year truly are historic in the history of the Dakotas. I, too, represent an entire State, like my neighbor to the north, and we are very geographically isolated. We are large States. We are truly accustomed and used to having adverse weather, tough circumstances and conditions to deal with. Yet, this year I think has tested that beyond the limits.

I recall an incident not too long ago, just recently in my State of South Dakota, the city of Watertown, where people were out sandbagging in 30-below wind chills and 60-mile-an-hour winds. That is the kind of season that we have had to contend with.

It is heart-wrenching when you see the stories and witness firsthand the people who have been torn from their homes. My friend, the gentleman from North Dakota, as he mentioned, has spent some time in the relief center there, and had an opportunity to see again firsthand what people are going through and enduring, the effect, the toll it takes on families.

A few weeks back my wife and I as well had an opportunity to spend some time in the Red Cross Emergency Relief Center in Watertown, SD, and it really is one of those things that you have to experience and see firsthand to have an appreciation for what these people are going through.

I have talked with friends in my State who, as a result of April blizzards, have experienced enormous losses of livestock. It was bad enough during the blizzards during the winter, but then we got a late spring blizzard during calving season. I talked with one friend who has lost 50 calves in calving season, another who has lost 20.

I think it is very important to note that for those of us who live in States like the Dakotas, that is our livelihood. We have an incredible challenge ahead of us to rebuild and to start to recover. Our economies are so dependent upon agriculture, and the cattle losses that we have experienced and much of the crop damage that is going to be caused as a result of not being able to get in the fields and plant, we are going to have a very, I think, difficult task ahead of us. We are going to need help.

That is why it is so important that we work together. We appreciate very much the response we have seen from those at the Federal level, the President visiting North Dakota this last week, and again, the Speaker coming out tomorrow to see North Dakota. The various Federal agencies have responded in a very quick and immediate way, and we want to credit them for the help they have given, and look to them again for assistance.

I think, again, the thing that I would note from all this, and we have seen an historic response, I think, from the Federal Government, we have also witnessed incredible examples of people working together. We have seen tremendous leadership at the local level; the mayor of Grand Forks, the mayor of Watertown, who have stepped up and led. Also our Governors in the States have helped take precautions so we have not lost lives.

We are very blessed, I think, not to have lost lives in this. But there was an incredible, tremendous toll on property, people putting their lives back together. But people have come together and worked the very best in the human spirit, we have witnessed that firsthand. It really speaks well I think to the pioneer, frontier spirit that the people in our State have. Their spirits have been bent but they have not been broken, and we will rebound. We will get back on our feet.

I can recall, again, going back in our history in 1972 with the flood in Rapid City that decimated the entire city, and the rebuilding effort that has been going forward there. It is now an economic wonder. It has become a great model for cities around the country. The economy is performing well. So Grand Forks I think as well will come back, but it will be a tribute to the leadership that they have there, and again, to the will and spirit of the people in that community and throughout our entire State.

It is a work in progress. We have much that remains to be done. We are very appreciative of the great effort that has been put forward by the administration, the various Federal agencies, our State governments, our local governments, and individuals who have stepped up and been willing to make the sacrifices that are necessary to help our States and some of these communities get back on their feet.

I look forward to working with my colleague, the gentleman from North Dakota, and other members of our delegation in our respective States, and Minnesota as well, and in the Senate, and working with our Governors and the various Federal agencies and through the appropriations process to bring the type of relief and assistance that is necessary.

I think we all realize these are difficult times fiscally, and we have to do these things in a very responsible way. Yet, we also have to recognize that these are truly conditions that have put people in a position where there are things they can do, but others that are just beyond their control. We are going to have to step in and help.

I appreciate my friend, the gentleman from North Dakota, for yielding to me.

Mr. POMEROY. Reclaiming my time, Mr. Speaker, I thank the gentleman for his remarks.

Mr. Speaker, this is a floor that sees an awful lot of tough, partisan debate. I think it is very important that our colleagues see tonight that when it really matters, when it is really on the line, like it is for the people that we represent in the context of this disaster, this is a body that can, in a very bipartisan way, step up to the plate and reflect, really, what the American people are thinking, a desire to provide help for people who need help.

Mr. Speaker, there is another North Dakota native in this House. I mentioned earlier that the majority leader is a native of North Dakota. So is the gentleman from Minnesota, JIM RAMSTAD, who very capably represents Minnesota and the Minneapolis area, specifically.

He has been absolutely more genuine and more sincere in his offer of support, just as sincere as he could be. I appreciate all he has done for us already, and look forward to his continued help as we try to get the disaster assistance put into place.

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding to me. I also want to thank my friend, the gentleman from North Dakota, EARL POMEROY, and recognize his efforts; the gentleman from Minnesota, COLLIN PETERSON, who represents the Seventh District; our colleague, the gentleman from South Dakota, JOHN THUNE; the gentleman from Minnesota, GIL GUTKNECHT, who is from southern Minnesota. For you people, your districts have been most directly impacted by the horrible floods of 1997, and they all have represented their people so well at the time of their greatest need.

I also have never been more proud of the people I represent in the Twin Cities suburban Third District. They have also been there, and they are there, they are going to remain there in support of our friends in North Dakota and South Dakota.

Last weekend there were sandbagging operations around the clock at a correctional facility in Hennepin County there, with inmates working hand in hand with high school students, and 500 people from the Mormon Church and other churches; volunteers coming out to help sandbag and send the sandbags up north; food banks, many food banks helping. There is one I am familiar with, Lake Country Food Bank, Hy Rosen, the executive director. Right now as we speak, I talked to him earlier today, they are loading eight or nine semis of dry food to send up to people in need;

The churches, sending choirs to cheer up the people in these flood-devastated areas;

The schools, young schoolchildren, trying to cheer up other young people who have been so devastated;

Families pitching in, corporations.

My colleague, the gentleman from South Dakota, mentioned several corporations. Northwest Airlines offered free transportation to get emergency supplies up. The State bar association, I know the 16 law firms, major firms in Grand Forks, were wiped out, 8 by the fire, 8 by the flood; everything destroyed, all their books, records, wiped out. Cheryl Ramstad Voss, who happens to be my sister and president-elect of the State bar, she has assembled a group tomorrow in the afternoon of the 50 big law firms in the Twin Cities to get together and help jump start those firms.

The Governors have been tremendous. The National Guard, General Andreotti in Minnesota, the Salvation Army has been there. Also I want to thank FEMA Director James Lee Witt, Jim Franklin, who is the emergency management director in Minnesota, and the local officials; the mayors as well.

Mr. Speaker, I do not want to take all my 5 minutes, I know there are other speakers. But I just want to conclude by saying that I strongly support the President's call for a $488 million Federal relief package. One-half is emergency dollars which the President has already committed during his visit, and $200 million of it depends on a special appropriation from us here in Congress.

We need to continue to work together in a bipartisan way over the next week or two to finish the job of getting this relief money to those people who so desperately, desperately need it.

I know the gentleman from Louisiana [Mr. LIVINGSTON] from the Committee on Appropriations said yesterday that he expects strong bipartisan support and quick action, and the people of those devastated areas certainly deserve nothing less.

I am also, in conclusion, grateful to the Speaker. I know the gentleman invited him to tour the area to see firsthand how bad it is. I appreciate the invitation to go along with the Speaker. My favorite cousins had to evacuate their homes in Grand Forks. In fact, their daughter and her husband and little baby do not know what they have to come back to. It is in the area that is hard hit. We do not know for sure at this time. But I know the Speaker has made a commitment to support whatever is necessary to get this flood-ravaged area repaired and restored, and to help the people in the short term as well.

We will be there with the full cost of emergency rescue and cleanup. We will be there for the permanent repair and restoration of facilities, as well as the short-term assistance, the disaster unemployment relief, the disaster food stamps. Then, over the longer term, we will be there with a Federal task force; a Marshall plan, as the President called it, for flood-ravaged areas.

I thank my friend, the gentleman from North Dakota for yielding to me, and for the tremendous job that he has done in serving his people well.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for his remarks. The majority leader, the gentleman from Texas [Mr. ARMEY], said when it comes to disasters, once a North Dakotan, always a North Dakotan. The Congressman, although so capably representing Minnesota, has certainly shown with the depths of his concern and the sincerity of the energy behind his effort to do something to help that that is true for him as well.

Mr. Speaker, this concludes the portion of our discussion about the Grand Forks, ND disaster and the disaster that has impacted our entire area. I do ask for Members' support and prayers. Mr. Speaker, I yield back the balance of my time.

TRIBUTE TO JAMES FARMER, CIVIL RIGHTS FREEDOM FIGHTER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Georgia [Mr. LEWIS] is recognized for the remaining 18 minutes of the hour of the gentleman from North Dakota [Mr. POMEROY].

GENERAL LEAVE

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEWIS of Georgia. Mr. Speaker I rise to pay tribute to one of the last of a special breed of freedom fighters, James Farmer. His voice has been strong and reliable; his leadership, invaluable. However, James Farmer has never sought the limelight. In the course of history and fate, he has not been given his due. We owe it to ourselves and to the unborn generations to stop and pay tribute to this great man, and that is why we are here tonight, Mr. Speaker.

Mr. Speaker, I yield to the gentlewoman from the District of Columbia, ELEANOR HOLMES NORTON.

Ms. NORTON. Mr. Speaker, I thank the gentleman for his great generosity in yielding to me. First, in light of some unavoidable scheduling difficulties, I will be brief, but I believe I had to come forward, because, Mr. Speaker, I was in the nonviolent army of Jim Farmer, and if I may say so, in the nonviolent army where one of the commanders was the gentleman who has the remaining period, the gentleman from Georgia [Mr. LEWIS].

He and I, because we were in that army, needed to come forward to pay tribute to a man who, as the gentleman from Georgia has said, many in America do not know, but who everybody knew in the 1960's when he led the nonviolent marches, and encouraged Americans to remain nonviolent in the face of what might otherwise have been temptations into violence.

The name of James Farmer is, indeed, a name that will go down in history as one of the great civil rights leaders of the 20th century. James fought the brutality of racism through nonviolent means, making him one of the Nation's most recognizable and influential black leaders in the 1960's.

□ 1845

In 1942, Jim Farmer and several Christian pacifists founded the Congress of Racial Equality with the goal of using nonviolent Gandhian tactics to challenge American racism. Under his leadership, the Congress of Racial Equality, or CORE as it became called, began a campaign of sit-ins which successfully ended discrimination in two Chicago restaurants in 1947. Later he would be appointed the executive director of CORE, and in 1961 his group

would initiate the famous freedom rides throughout the Deep South. The gentleman from Georgia will tell you all about those rides.

Like Martin Luther King, Jr., Roy Wilkins, Whitney Young, and other courageous black men of the early civil rights movement, Jim Farmer was no stranger to the danger of organizing nonviolent demonstrations in the tumultuous South of the 1960's. Jim Farmer literally put his life on the line more than once in the struggle for civil rights. In 1963, outside the town of Plaquemine, LA, a mob of State troopers hunted for him after he organized nonviolent demonstrations. He said and I am quoting him: "I was meant to die that night, they were kicking open doors, beating up blacks in the streets, interrogating them with electric cattle prods." And remarkably, Jim made his escape by playing dead in the back of a hearse which carried him along back roads out of town.

This articulate and charismatic leader continued to spread the method of nonviolent demonstrations throughout the country. Under his direction, CORE organized voter registration and civil protests like the 1964 demonstration at the New York World's Fair to protest black conditions in that city. In 1966, Jim Farmer resigned from CORE and a leadership role and went on to continue his work in civil rights in other ways. As president of the Center for Community Action, he championed adult literacy. His service with the Department of Health, Education and Welfare was noteworthy for programs increasing black employment in the agency under President Richard Nixon. Later he would direct the Council on Minority Planning and Strategy here in Washington.

The gentleman from Georgia, several other Members of Congress and I have written the President to ask that the Medal of Freedom be awarded to this great American who was among the class of the great civil rights leaders of the 1960's. He is, Mr. Speaker, today blind. He has lost the use of both of his legs. And yet with the indomitable determination for which he was known in his younger years, he continues as a distinguished professor of history and American studies at Mary Washington College in Fredericksburg, VA.

This is a very distinguished American. He helped originate the nonviolent approach that saved our country from race war. One of the originators of this approach among the young people, I must say, Mr. Speaker, was the gentleman from Georgia, who perhaps more than any man in America suffered physically for his commitment to nonviolence. But he would be the first to note his gratitude to a man who was his senior and the leader of us all because we were young whippersnappers learning from the likes of Jim Farmer.

Few if any countries have solved so serious a problem, so deep a problem as American racism nonviolently. Martin Luther King, Jr., was not the only apostle of nonviolent resistance and peaceful approaches to breaking down racial barriers. He is only the best known. One of the very best known of course continues to serve in this Congress, and that is the gentleman from Georgia. But the fact is that in these days, when we decry violence in our country, we would do well to look to the leadership of those who were willing to die for nonviolent change.

The moment of civil rights triumph may be a distant memory to some. After all, we are a generation removed, but certain ideas never lose their currency and one of those ideas is equality. Another of those ideas is racial harmony. And Jim Farmer stood proudly for both and would stand proudly for both today. The President of the United States, Mr. Speaker, has said that race relations is one of the priorities of his second term and well it might be.

Mr. Speaker, we ought to be worried about race relations in our country today, so many of us are comfortable, the smaller the group. The fact is that when the gentleman from Georgia and I were young troops in the nonviolent armies of the South, I think it fair to say that there was greater communication often across racial lines than there is today. We are not nostalgic about the past, but there are some parts of the past that I would like to recall. One way to recall and to pay a debt the country owes is for President Clinton to award the Medal of Freedom to an American hero, a man who suffered for it, a man who stood on principle and a man who taught America that its gravest social problem could be solved and could be solved nonviolently.

The life of Jim Farmer recalls us to first principles, brotherhood and sisterhood, if you will, racial equality and racial and ethnic harmony. These are great American principles. They have had their ups and they have had their downs, but they are and must remain with us in perpetuity. I thank the gentleman from Georgia for his great generosity in yielding to me.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentlewoman from the District of Columbia [Ms. NORTON] for those very moving words. We are grateful for her leadership, for coming here tonight to recognize Jim Farmer.

Mr. Speaker, we really did not hear a lot about nonviolence as a part of the early civil rights movement until the Montgomery bus boycott in 1955. But that was actually almost 15 years after the use of Gandhian principles in the struggle for civil rights. Jim Farmer, this brave warrior, did it first.

When Jim Farmer graduated from the School of Theology at Howard University in 1941, he went to work for a pacifist organization in Chicago, the Fellowship of Reconciliation. Farmer had been studying the nonviolent techniques and teaching of Gandhi. He marveled at the success of Gandhi's 1930 salt march to the sea. He suggested to the Fellowship of Reconciliation that they find ways to use Gandhi techniques, civil disobedience, direct action, and nonviolence in the battle against segregation. The Fellowship of Reconciliation, better known as FOR, did not take his suggestion. It did not attempt to discourage him but said that it would not sponsor such activity at that time. So Jim enlisted some of his friends, an interracial group, mostly graduate students at the University of Chicago, and they founded what they called CORE, the Congress of Racial Equality.

One evening after a CORE meeting, Jim and a white friend stopped by the Jack Spratt Coffee Shop. Farmer wanted to order a doughnut. He was told that he could not be served. Farmer told the waiter that he was violating State law by refusing to serve him. The waiter said, fine, that doughnut will be $1. The usual selling price was 5 cents.

The next day Farmer came back with about 20 of his friends. The whites in the group were served; the blacks were not. But no one would eat until everyone was served. They very calmly explained that it would be rude to do otherwise. The result was that they all ended up sitting there all day.

For 3 or 4 days they came back to Jack Spratt Coffee Shop first thing in the morning and tied up almost every seat for almost all of the day. It did not take Jack Spratt long to give in and serve everyone. Farmer sent them a nice letter thanking them for changing their policy. This was our Nation's first nonviolent sit-in. That was April 1942, 55 years ago this month.

Gandhi's technique of civil disobedience, direct action, and nonviolence has worked. Jim Farmer was right. Fifty years ago, in 1947, Farmer led CORE members in a challenge to the practice of segregated seating on buses traveling interstate. The U.S. Supreme Court had ruled the year before that blacks could not be forced to ride in the back of the bus. On what he called the journey of reconciliation, they traveled through Maryland, Virginia, North Carolina, and West Virginia. Some members of that group included Bayard Rustin. Three were arrested and they served 30 days on a chain gang in North Carolina for having violated local segregation laws. But in 1961, Farmer organized the Freedom Ride. He came here to Washington on May 1, 1961; 13 of us, 7 whites and 6 blacks, Farmer, like myself, who was one of the original freedom riders. In May 1961, we left Washington, DC to travel throughout the South.

Some of us pretended during those workshops to be white and some said

horrible things and beat others of us up. We discussed what we could expect on the freedom ride. We resisted violence. We practiced being nonviolent. We prayed. We prepared ourselves for the worst. Three days later, we set out on the Freedom Ride on May 4, 1961.

Officials in the southern States knew we were coming. Jim had sent them letters in advance. Virginia and North Carolina took down their white-only and colored-only signs that had been hanging in the bus station. We had no problem there. South Carolina was a different story. When we arrived in a little town called Rock Hill, there were young men waiting for us. They would not allow us to enter the waiting room. I explained to them my rights under a Supreme Court decision and they clubbed each one of us.

But Farmer had trained us well. My eyes, like others', were on the prize. Nothing could stop me or the others. We were on a mission.

When we got to Birmingham, Bull Connor, the chief of police, had his officers put newspapers on the bus windows so that we could not see out. When we arrived on the scene, he ordered the troopers to take us into protective custody. They put us in jail where we stayed until the next day.

We went on a hunger strike. You see, that was one of the techniques of nonviolence Jim Farmer had taught us. The media attention would be focused on our hunger strike, and Bull Connor would not want to risk our getting sick or starving on his watch. By going on a hunger strike, we were going to force Bull Connor to change his behavior, to change whatever plans he may have had for us and treat us differently than he may have otherwise. It worked.

But the next day, Bull Connor drove us 150 miles to the State line and told us to get out. We walked and walked until we found a black couple that took us in and fed us. We called fellow students in Nashville, and they came to pick us up and took us back to Birmingham to resume the ride. I guess Bull Connor must have thought these young people are like fleas. We can get rid of them. But that is what Jim Farmer taught us. Go on, get under their skin.

Mr. Speaker, James Farmer, this good and decent man, taught us how to practice the philosophy and the discipline of nonviolence. Jim Farmer was one of the big six of the civil rights movement, and with each of us Jim was scheduled to speak at the March on Washington in 1963. But rather than coming to the March on Washington, he was arrested and placed in jail in a parish in Louisiana. And he stayed there with the people rather than coming to speak at the March on Washington.

Mr. Speaker, let me close tonight by saying, James Farmer is not in good health tonight. But he is still teaching at Mary Washington College where he is a distinguished professor of history and American studies. He continues to inspire his students and all those who are blessed as I was to come in contact with him, to set goals, direct action, to be creative, to have a vision, and keep the faith.

Mr. Speaker, as a nation and as a people, we are more than lucky, but we are blessed to have had this man in our midst to lead American people toward the creation of a truly beloved community, toward the creation of an interracial democracy. So we are doing the right thing here tonight, Mr. Speaker, by honoring this great man, James Farmer.

Mr. TOWNS. Mr. Speaker, 55 years ago, James Farmer had the tenacity and passion to organize and lead the first sit-in at the Jack Spratt Coffee Shop in Chicago, IL. This director of the Congress of Racial Equality [CORE] during the height of the civil rights movement is still around to tell what it was like at the helm.

Farmer's determination grew from an early incident. At the age of 3½, he learned about racism for the first time when he was denied a Coca-Cola because of the color of his skin in Holly Springs, MS. From that day forward, he was burdened with a desire to bring about racial harmony and equality.

James Farmer is the last of the "Big Four" civil rights movement leaders. The other three coleaders of the civil rights movement of the 1960's are not around to tell their stories and give their historical perspective on America. The Rev. Martin Luther King Jr. of the Southern Christian Leadership Conference, Roy Wilkins of the National Association for the Advancement of Colored People, and Whitney Young of the Urban League are now deceased.

However, James Farmer is still with us. Referred to as a "young Negro aristocrat", Farmer was born in Texas, where his father was the first black person to earn a Ph.D. degree. Today, he is 77 years old, blind and he has lost the use of both legs.

As we approach a new millennium, Americans and the world are still trying to bring about racial justice and understanding; a philosophy Farmer espoused when he began training an interracial group of 13 young people in the nonviolent techniques of Gandhi. To ensure that this history is never lost, it is fitting that Mr. James Farmer be awarded the Presidential Medal of Freedom for his meritorious contributions to our society.

Mr. SCOTT. Mr. Speaker, I rise today to add my voice to those of my colleagues in appreciation of and respect for a quiet hero, Mr. James L. Farmer. During the turbulent 1960's, he rightfully earned his place as one of the "Big Four" in the civil rights movement along side the other giants: Whitney Young, Roy Wilkins, and Martin Luther King, Jr. Though famous for founding the Congress for Racial Equality, James Farmer was an unassuming, modest man. For that reason, many Americans—African-American as well as white—are unaware of the invaluable contributions he made to the civil rights movement, and, even more importantly, to the fulfillment of America's underlying principles and goals for all of its citizens. We call on President Clinton to honor James Farmer by awarding him the Presidential Medal of Freedom.

Sadly, few who are familiar with photographs of James Farmer taken in the sixties when he orchestrated the first Freedom Rides would recognize him today. At 77, he is blind, suffers from severe diabetes, and has been forced to undergo several amputations. Even now, he is hospitalized, recovering from the latest operation to remove his left leg above the knee.

By where James Farmer's body may be weak, his achievements remain as strong as any man's. He continues his life-long work, teaching a popular civil rights course at Mary Washington College in my State. And the textbook for that class is his autobiography. The achievements of the civil rights movement are in large part the achievements of James Farmer. And the time is right to honor his achievements. Let him just this once feel the applause, receive the accolades, and hear the words of thanks from a grateful nation.

Mr. CLAY. Mr. Speaker, I am honored to join in paying tribute to one of our Nation's heroes in the battle for racial equality. A man of unwavering faith and steadfast devotion to his people and his Nation, James Farmer has devoted his whole life to the cause of racial harmony and individual justice. James Farmer is a man of vision who infused a generation of black Americans with the spirit and strength of nonviolent protest against the scourge of racism and injustice. Through countless contributions and endless personal sacrifices, James Farmer has played a critical role in profoundly changing the course of our Nation's history.

Mr. Speaker, I am personally grateful to Farmer for the support and inspiration he gave to me and to so many others at a critical time in the history of the civil rights movement. Farmer founded the Congress on Racial Equality. CORE was the catalyst for challenging and overcoming the entrenched segregation and racism that incarcerated black Americans and sentenced all Americans to a nation of unfulfilled promises, lost to its once cherished vision of freedom and equality. It was unfortunate that Farmer was unable to address the Great March on Washington, his remarks had to be read by someone else because he was jailed in Plaquemine, LA.

James Farmer was a founding father of the 20th century civil rights movement. In the beginning, there were only a handful who committed themselves to banishing segregation and building a colorblind nation. Although their numbers were few, their dedication was enormous. In just a few short years Farmer saw his followers grow from dozens to hundreds to thousands; under his leadership the Freedom Riders rose up and changed the direction of a nation.

Mr. Speaker, it was my privilege to have worked with CORE in the 1950's and the 1960's. It was my privilege to be among those sent to jail for our peaceful protest at the Jefferson Bank in St. Louis. And, it has been a privilege to have spent my career fighting for equal rights and social justice. James Farmer has been a source of courage and strength to me and to thousands of others. All who cherish racial harmony are grateful to James

Farmer for his wisdom and guidance and devotion. James Farmer is a man of peace and good will. He will be forever appreciated and celebrated for a life service to his people and his Nation.

Mr. Speaker, I salute James Farmer and urge President Clinton to award this outstanding American the Presidential Medal of Freedom.

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DRUG ABUSE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Illinois [Mr. HASTERT] is recognized for 60 minutes.

Mr. HASTERT. Mr. Speaker, tonight I want to take some time and talk to you and the House about a very serious problem that faces this country, not only facing this country but it is facing many nations across this planet, and that is drug abuse.

Many times we see drug abuse in the guise of our children having OD's, being in the emergency room, finding problems in schools, drug gangs that are popping up across this country, especially in big cities and in towns adjoining big cities. We see the drug problem in OD's of kids in our neighborhoods, children, but it also is in corporate America, it is also in people who do work in blue collar areas.

We have worked in this country to make sure that people who fly airplanes and drive trucks and maneuver trains down the tracks certainly are drug free. We have worked hard to make sure that we have drug free workplaces in this country. And certainly the Federal Government and many, many State governments have worked to make sure their workplaces are drug free as well.

But, Mr. Speaker, I have just returned from the Second International Symposium Against Drugs in Switzerland, and what I learned there was truly disturbing. At the same time it was heartening to meet with doctors and world leaders engaged in the fight against drug abuse, drug-related crime, and international drug trafficking.

America and Europe are both under siege directly from international drug traffickers and internally from well-financed drug legalization movements. In Switzerland, legalizers give away 100 percent pure heroin, and between 300 and 5,000 needles a day, plus heroin cigarettes which Swiss legalizers claim are compassionate because these cigarettes, Mr. Speaker, do not contain tobacco.

Proponents of drug legalization are, at best, a dangerous and misguided crowd. For many it is an elaborate game, a way to retaliate against those who condemn their own drug using behavior. For others legalization is a means of achieving other ends, undermining moral values and democratic institutions, turning profits on an expanded population, creating new industries around the maintenance of addiction, and, in a few cases, even yearning to justify a tragic loss to drug abuse.

Whatever the motivation, drug legalization is wrong headed and destined to hurt those societies which indulge the instinct to experiment with the most vulnerable segments of their population, including their children.

So let us be clear about legalization, Mr. Speaker. The promoters of legalization forget the basic facts. They forget, for example, that drug use and abuse always and everywhere follows drug availability. They forget that there will always be more users trying drugs when there are more drugs to try.

This is clearly the experience of the United States. Between 1992 and 1995, the administration experimented with reduced drug interdiction. The result was more drugs inside our country and more kids trying those drugs. In 1994, there were three-quarters of a million more teenagers using drugs than in 1992, a reversal of the 1981 to 1992 downward trend in drug use.

By contrast, between 1985 and 1992, when the United States was firmly committed to halting the inflow of drugs, casual teen drug use fell dramatically. Regular drug users fell by 80 percent, from 5.8 to 1.3 million. Crack use declined from nearly a million in 1990 to just over 300,000 in 1992. And marijuana use plummeted from 22 million regular users in 1985 down to 8.5 million users in 1992, a 61 percent fall. That is what can happen when a society is serious about turning back the tide.

Legalization promoters also forget that the number of addicts invariably rises with the number of casual or experimental users. In the United States, as casual teen drugs rose after 1992, so did addiction.

Legalization advocates forget that the political leadership of a country that embraces legalization is also sending a message. I was a high school teacher for 16 years. I think I know kids. Kids are not stupid. They know if adults in their lives are giving consent or are forbidding it. They need and want limits set, even if they occasionally test those limits. And when there are no limits, they respond accordingly.

If someone is looking the other way and letting them get high or use drugs, they know it. If society legalizes dangerous drugs in any measure for those who wish to get high or are already addicted, kids get the message. Society will have put the stamp of approval on drug use. And, as the old saying goes, what is good for the goose is good for the gander. Kids know hypocrisy when they see it.

Finally, legalization promoters forget three other terrible and compelling facts: First, a drug overdose, for example, by heroin is not a simple or sterile or quick or painless event. It is a horrible, choking, suffocating event. The lungs fill with liquid in a lung edema, and the person, often a child, slowly chokes to death.

Second, they forget that there will always be a black market for drugs that are more pure than those being made legally available, and there will always be those who cannot get the drugs but want them.

Finally, the most drug-related crime is not between dealers or gangs. Most are committed by those on drugs, or so-called pharmacological crimes. Up to 70 percent of the United States' State prisons are filled with criminals who committed their crime on drugs. Legalization only increases this population.

Let me turn now to the heart of the matter: National security. This is a big area I want to discuss.

The Swiss national security is threatened by legalizers and traffickers in drugs, and so is our national security. In America, public complacency and indifference by the media are permitting drugs to erode public security, personal security, and ultimately, national security.

But we all must recognize the enormity of the threat. This threat to our society comes from the international cartels in Colombia and Mexico, who export literally hundreds of millions of tons of heroin, cocaine, crack, and marijuana annually. But the threat also comes from within.

In the United States, we have been timid about confronting it on both fronts. In the United States, we are accustomed to thinking about national security and threats to national security in traditional ways. When I say, for example, that America faces a national security threat, and we do, most people think of bombs and tanks and espionage and intercontinental ballistic missiles, maybe theater nuclear weapons. They do not think of hypodermic needles filled with 90-percent pure Burmese or Colombian heroin. They do not think of crack or LSD or THC or methamphetamine.

When I say the world's leading democracies are in the jaws of an insidious national security threat, and they are, most people think of spies and uniformed soldiers and body bags and conventional warfare. The truth is different. Often most serious threats are those that masquerade as solutions or mere distractions.

In my view, the legalization initiatives passed by California and Arizona this last election season are the Trojan horses of the 21st century. My message is that this is not a game or a harmless distraction and it certainly is not a solution. The drug cartels are sophisticated and they welcome the legalization movement.

This is a war, and the traffickers and legalizers are intentionally slipping a Trojan horse within the gates of the United States and Switzerland and other countries around the world. On the whole, we in the United States have been too complacent, we have underestimated the organizations, the power of this $40 billion annual industry. Yes, Mr. Speaker and Members of the House, I said billion with a B, $40 billion annual industry.

The power to corrupt, power to kill, the power to destroy the heart and soul of our society. We have underestimated the threat for a simple reason. Drug traffickers and promoters are not the sort of threat that we are used to responding to. They do not wear uniforms or come in battalions. Instead, they often come with stealth, in the dark, and inject society under the shroud of night.

But let us not kid ourselves. Let us go to the very heart of this. This adversary is well-financed, it is powerful, it is violent. We have had hearings in the Committee on Government Operations and Subcommittee on National Security, International Affairs, and Criminal Justice about the huge cartels in Colombia and Mexico, their far-reaching effect, that are in places as far away as Nigeria and Russia and Japan, the use of the Japanese yakuza organization and the Russian Mafia and the Nigerian drug runners across the world. Those stories are well-known.

So there is no limit to what these drug cartels are willing to do. They are well-financed, and they are powerful, and they are very, very violent. It kills more people in 1 year than died in the entire cold war. Last year, in the United States, this underrated adversary killed more than 10,000 children. Think about it, 10,000 children.

If anything else in this country threatened our children, our kids that are in schools, kids that walk the streets in numbers of 10,000, this Congress and this society would be turned upside down. But drugs have done that.

On a personal note, I come from Illinois, and my brother works in a public school in Aurora, IL. Already this school year he has buried one of his students, buried him because the student was involved in a gang and the gang was involved in drug trafficking.

In my congressional district, in one of the major cities in Aurora, IL, 6 children have already died this year from drugs and drug-related violence. Why? Because they are involved in gangs and drive-by shootings and drug overdoses. It is something that is there in somebody else's neighborhood, not in somebody else's State, but in our own backyard.

On the national level, the numbers are stark. Over the past 3 years, we have witnessed a 200 percent increase in drug use by American children, the kids between the ages of 8 and 17, our kids. The price of dangerous drugs has fallen by several magnitudes, as availability has increased. Street purities of cocaine and heroin and marijuana have all jumped to record levels, all this because we let down our guard between 1992 and 1995 and we have been slow to see the national security implications.

This year, the fourth year in a row, a national reporting system by the U.S. hospitals called DAWN showed record level emergency room admissions for cocaine, heroin, methamphetamines, and THC or marijuana. In 1995, overall drug-related emergency room episodes jumped 12 percent; cocaine-related episodes leaped 21 percent; heroin-related episodes skyrocketed 27 percent. THC or marijuana-related emergencies, as a result of purities that are up to 25 times greater than in the 1970's and the lacing of marijuana with PCP, were up 32 percent. Methamphetamine emergencies were up 35 percent.

In short, drugs are destroying young lives in record numbers. So the crisis is here. The crisis is in Switzerland. The crisis is over the face of this planet. And the crisis is real, as real as World War II, as the air battles over Britain when Winston Churchill called for his nation to respond. It is as grave as the national security threat to the generation which must follow as the threat that animated the French Resistance to act against the Nazi government.

The difference here is that this threat is insidious, it is slow growing, it is like a cancer, it grows below seemingly healthy skin. It is threatening Switzerland's future, and it is threatening our own future in this country. That is why Congress is fighting legalization and fighting to fund drug prevention and drug interdiction. We must respond. We must see the Trojan horse that is slipping even now between our gates, and we must turn it back.

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We must recognize that drugs fund crime and dissolution of all that is best about America and Switzerland. They criminalize our banking and commercial systems. They finance terrorist groups in Russia and the Middle East and Peru and Mexico and Colombia, and they undermine the future that we wish to pass on to our children. I worry, too, that Swiss banks may not be fully on guard about drug money laundering. Even here we must do more.

In closing, I must say that we have now been to, and our committee has traveled to, the drug producing and shipping nations of Burma and Colombia and Bolivia and Peru and Panama and Mexico and certainly seen what we are up against. I traveled into the jungles where coca and poppy are grown and processed, and I think we have a mighty adversary to confront in those nations.

The first step for us is to support the drug war and drug prevention. The first step is for Switzerland's people to pass the youth-against-drugs referendum. But my hope is that we will not be misled or deceived and that we will see this national security threat for what it is and respond with a dedicated anti-drug effort in Switzerland and here in America. I especially want to congratulate VPM and Dr. Francesca Haller, as well as the AIDS-Information-Switzerland, for fighting against heroin legalization with all their hearts, and we are with you.

This problem, Mr. Speaker, is an insidious problem. It has reached down to the very heart of our society. It has reached into other societies around the world and into our commercial institutions. There are questions about banks and money laundering, because of all the efforts of people who grow illegal drugs and move them into countries such as Colombia to refine them and from Colombia move them into Mexico where drug families move them across the border and across this country and into the street corners where kids can buy them. It would never happen if we could not take the street bills, the 5- and 10- and 20- and 50-dollar bills that kids pay to drug dealers, and that money goes back to the drug cartels.

Money laundering is a problem. In Switzerland, it is even a greater problem because Swiss banks carry money and wires from all over the world. Later on I am going to borrow from an article written by a gentleman named Bob McGinnis, who talks about how Swiss banks are being implicated in moving drug money across this universe.

I yield to my good friend from Fort Wayne, IN [Mr. SOUDER], who has certainly worked with us on drug issues.

Mr. SOUDER. Mr. Speaker, I wanted to associate myself with the chairman's remarks and to congratulate him on his leadership in the committee. Last fall when the National Security Committee was winding up a 2-year effort, there was some concern whether or not this was just a political effort. In fact, we had been working on this from the time we came in to control Congress because when we saw the facts of the results on the American streets and neighborhoods and families, we backed off of our commitment against drug interdiction, we were alarmed. We spent 2 years traveling across America, traveling down to foreign nations and confronting the leaders with the fact that most of those drugs were coming across the Mexican border, being produced in the coca leaves of Peru and Bolivia, processed in the labs of Colombia, and we confronted them. We confronted the television and the movie industry in Hollywood and said and challenged them with what they were producing and what impact they were having in our home communities.

We went around the country in every region of the country looking and hearing stories, tragic stories of young children, of families being destroyed, of women being intimidated by husbands who had been beating them. As one poor lady said in Arizona, in JOHN SHADEGG's district, she said she hated to say this but she hoped that the drugs killed her husband before he killed her because he had been beating her and her daughter, she was hiding and moving from shelter to shelter because of what had happened with drugs, all of which started with marijuana.

The myth that marijuana is not dangerous, all these people said, well, we started with marijuana, we heard from kids, oh, we thought marijuana was good, but then we wanted to get higher. We heard it from gangs, from women who were being beaten, from law enforcement officials, from school administrators. We heard it across the board. There was a clear linkage. There is a dispute as to whether this is a war or a cancer. It is in fact both. It is a war in the sense it is coming at us.

People are making money, they are destroying and undermining the fabric of our country. It is also a cancer eating away at our soul internally, person by person, as we relax our standards and say well, we do not want to judge other people's behavior and so on. But that behavior has a direct impact on all of our lives.

We had a case in Fort Wayne just recently where a high school student who was high on cocaine and alcohol flipped their vehicle, hit a senior citizen, then flipped over the median on the interstate and hit two more cars, two people dead, four people injured if I recall correctly. And it was a series we have had of multiple accidents with people on drugs.

If I cannot drive on a road, if my wife cannot drive on a road without fearing that somebody is high on drugs or alcohol endangering our lives, what is freedom? If my son cannot go to school, if my daughter cannot go to college, if they are not safe when they go out on the roads at night, if they are not safe when they go shopping, if the gang wars that we have in our district, the least we have heard is 70 percent, the highest is 85 percent of all crime of every type is drug and alcohol-related. These are tragic statistics. We cannot say we are worried about crime but oh, not about marijuana. It is not a question of well, alcohol is legal. Quite frankly, if we had the statistics today and looked at alcohol, we would not legalize it. It is not a justification to legalize marijuana.

Furthermore, if we are increasingly enforcing anything on zero tolerance in the schools, it is illegal for minors to have alcohol as well and we should not use that as an excuse to back off what is true. That is why it is so tragic about what has happened in Arizona and California with this false siren of medicinal use of marijuana. If there is a component in marijuana that can relieve pain, there are multiple other ways that you can do that without having the dangerous effects of marijuana. It was a false bill of goods sold by people with a vested interest in destroying our laws against drugs, and we need to stand up to that.

I am also concerned as we watch what happened there and to hear of our chairman's efforts in Switzerland to speak out and the things he has brought here tonight and will continue to bring out, it is very disturbing to see heroin needles being distributed, the massive level of experimentation they have been doing. That the United Nations would be involved in any way in this calls into question a lot of the judgments that many of us have anyway about how the U.N. Health Organization works. The fact is that we have been through this. This is not new.

My friend, JOHN SHADEGG, has this quote, I cannot remember the original person that had the quote, that history may not repeat itself but it rhymes, and that is often the problem that we are facing here. It may not be exactly the same thing but we can see these repetitive patterns. It is as if sometimes when you drive in on the interstate in the morning, if you see somebody who has run out of gas in a tunnel, you say, "Boy, I feel sorry for that person," because maybe they do not know all the information. But when you do it a second time, when you start to see the repetitive patterns, you go, do you not ever learn from history? Are there not things that are triggers and say, "We've been there, we've done that, we don't need to do that again"?

You give heroin needles away, heroin abuse goes up. You have these different programs that are out there that supposedly are getting people off, and instead you are getting people more addicted and you are expanding it.

We have to look to the past history of this and, that is, the things that work are a combination of different variables. One is, we have to keep the pressure on the interdiction. Even if we cannot stop all the drugs coming across the Mexican border, which we cannot, and even if we cannot stop all the drugs that are coming from Colombia to Mexico because the coasts are too long, we can put the pressure on and reverse a problem that has been happening in Fort Wayne and all over America and, that is, the price was dropping, the purity was increasing, and that was meaning the street price was easier for the kids to get, easier for adults to get, more risk to the society, and it was more potent drugs. By putting the pressure on, we not only force the pricing structure to change in this country and the purity structure and the watering down by making it more difficult for them to get their prices on the street, but we also put pressure as we heard in Peru and other places that they were starting to have the breakthroughs after the interdiction pressure went up, after President Fujimori instituted his shootdown policy if planes did not respond because the campesinos were finding that, hey, the dealers did not want to take a profit hit so they were paying them less. And all of a sudden alternative crops to coca leaves look more attractive if your pricing structure is different. So interdiction has to be a critical component. But so does education and prevention. We need to be looking just like we look at what interdiction programs are working and not working, we need to look at does this work, does this not work? What can we target in the middle schools, clearly the place where so many kids are at risk and how can we focus in on that? How can we do better prevention programs to get addicts off and focus on that? Because a lot of these things have such high recidivism rates, it is a question of how they are working but it does not mean we should not work at treatment.

Furthermore, and we all know this, ultimately in a free society there is personal responsibility. Ultimately people have to take more and more responsibility for their own lives. Families need to be engaged. Churches need to be engaged. Individual teachers and others who can be an influence on kids where they may not have the family structure or have the means or anybody taking them to a church. As this country, we need to change this, because it is tearing us at the core like a cancer and it is a war coming at us more dangerous than any other war as the chairman clearly demonstrated in his statistics. We cannot say, "Oh, I'm bored with this drug problem, I've heard this before, can't you talk about something else?" It is not going to go away. It is going to be there. It is a constant battle because evil will be there. The struggles that everybody goes through, the temptation to try to cop out of your problems by getting high is a human temptation. But this is an insidious one. It is not a freedom of yourself to practice something. It is a danger that when you smoke pot, when you take heroin, when you take cocaine, when you get drunk, you endanger other people. I thank the chairman.

Mr. HASTERT. I thank the gentleman from Indiana. It is interesting, you can imagine my shock and chagrin when I went to a place that I had visited 25, 30 years ago, Zurich, Switzerland which at that time it was a pristine city on a beautiful lake shore. Today that city is not so pristine. There are addicts in the train stations, there are addicts off in the alleyways. The city at one time just recently gave away 15,000 free needles for heroin use

a day. Today if you declare yourself as an addict in Switzerland, you have a pension granted to you of 2,500 Swiss francs, and it is 1.4 Swiss francs to the dollar. If you have a dog, you get another 500 Swiss francs. If you have a wife, you get another 2,500 Swiss francs. If you have a child you get another 350 Swiss francs. So you can have a pension, declare yourself an addict, have a pension of about $4,000 a month and live and get free heroin. What kind of a message does that send to the rest of Europe? What kind of a message does that send to the world? What kind of a message do our kids get from that country? We have enough problems. We do not have to just point to Switzerland. We have enough problems here. But we cannot afford to let countries who have traditionally been our allies slip into this type of morass.

Mr. Speaker, I yield to the gentleman from Florida [Mr. MICA] who has been one of the stalwarts in the fight against drugs, both in this country and trying in interdiction abroad.

Mr. MICA. I want to thank the gentleman from Illinois, chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice of the Committee on Government Reform and Oversight. I want to take a moment and particularly thank him for his leadership. I remember last week we had a discussion on the floor about the progress of this session of Congress and one of my colleagues said, well, what have you done about drugs on this side of the aisle, commenting to us, and that we had not done enough. I had to remind the gentleman that just in the few months of this session under the leadership of the chairman, the gentleman from Illinois, we have held more hearings than were held in the entire first Congress when I came from 1993 to 1994, my first term, that the leadership that Chairman HASTERT has provided is unprecedented. He has had before his subcommittee that oversees national drug policy just in the past few months the drug czar for very lengthy, in fact many hours of questioning not only in formal hearings but numerous meetings, countless meetings and work and cooperation with the drug czar. With this administration, he has had the Director and Administrator of DEA before the committee, very lengthy discussions, hearings. Another member and leader of this issue is the gentleman from Ohio [Mr. PORTMAN], who has had legislation to bring together the efforts of local government, community-based organizations that are combating illicit drugs and drug abuse and working to promote prevention and education in our communities.

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He has had hearings already on his legislation, and his proposal and funding of that proposal that is probably the most effective way of combating drugs with those successful community-based programs, not to mention other work.

My colleague, the gentleman from Florida [Mr. MCCOLLUM], who chairs the Subcommittee on Crime of the Committee on the Judiciary held a hearing recently in San Juan Harbor. Our subcommittee, under Chairman ZELIFF, who chaired the subcommittee last year, held a similar hearing. We were trying to put Humpty-Dumpty back together again.

The programs of interdiction, the programs of enforcement, the programs of military cooperation, the involvement of our Coast Guard, the whole picture was destroyed in 2 years when the other body took office, other party took office, the executive office, and then controlled both the House and the other body, and we have seen the results of it.

And I have a selfish interest in this. I have children. I come from central Florida, a beautiful area, and I held up in the last year this headline from the Orlando Sentinel: "Long Out of Sight, Heroin is Back Killing Teens." Central Florida, tranquil, prosperous area; we are not talking about ghettos or urban settings of Los Angeles, New York, Detroit. We are talking about peaceful, central Florida where heroin is epidemic, where our children are literally dying in the streets, and under the leadership of Chairman ZELIFF and others who are here tonight came into our community last fall and held an intensive hearing, and helping us get back on track.

Then the problem has not stopped, and the problem continues, and this is last week's Orlando Sentinel article: "Orlando No. 2 in Cocaine Deaths." This is just last week. One thousand eleven people died, up 7 percent in Florida, from cocaine; over a thousand potentially useful children, fathers, mothers, their lives destroyed because of what is going on. And part of this does relate back to this policy of just say maybe.

I am very concerned about what I have heard, what the chairman has outlined tonight, this policy that we have seen in Switzerland of just say try it.

Now we have an administration in this country that appointed a national health officer, the Surgeon General, Jocelyn Elders, who said just say maybe, and we see where it has gotten us today with epidemic use of heroin, cocaine, methamphetamines, designer drugs with our youth, and now we have a good example that the chairman has brought before the Congress tonight, a very bad thing that happened in another country when the Swiss Government, in fact, said just say try it, and they tried it, and the result is a disaster.

So there are those now that want to legalize drugs that say this is the panacea, and we see the experience of this country, and it is not a Third World country. It is Switzerland, a very sophisticated country, very sophisticated economic system, and we are not talking again about just urban problems, but they have tried it, it does not work, and their people are demanding a referendum, and the referendum is called Youth Without Drugs, and they intend to repeal this government policy.

So those who would like to say just say maybe, or just say try it, we have a great example of a bad reaction to a program that did in fact fail.

Now it is easy to come and to criticize what has been done, and we make no bones that we are not pleased with what happened in the first 2 years of the past administration here. But what have we done? And let me tell you when the new majority took this responsibility on, that the current Chair, the gentleman from Illinois [Mr. HASTERT], was appointed by the leadership to direct a House-wide effort to coordinate all the resources of the House of Representatives and the various committees of jurisdiction to again put Humpty-Dumpty back together again to make certain that interdiction was restored, to make certain that our military and our Coast Guard had the capability to become involved, to make certain that the eradication programs and these source countries were restored, to make certain that treatment programs were not just spending a great deal of money but we were concentrating on putting the money into effective treatment programs. And then education, which is so important, that other part of this four-legged stool, that that in fact also be properly funded and addressed, and the programs that are a success that had the support of this Congress.

So the Speaker of the House of Representatives appointed Mr. HASTERT. Now we are privileged to have him chair this Oversight and Investigation Subcommittee, national security, international affairs, criminal justice, that has authority over our drug policy, and each of the elements have in fact been restored. He has fought to get the funds back so that the military can become involved in this. He has restored the cuts. The first thing President Clinton did was cut the drug czar's office and staff and capability, and he has worked to restore that office. He has worked to bring the Coast Guard back into the action on some of the heroin that is coming into this country. He worked to bring to the floor the first decertification measure ever heard in the House of Representatives or ever passed by the House of Representatives.

So he has helped to put Humpty-Dumpty back together again, and he brings to the floor tonight, to the attention, Mr. Speaker, of you and our

colleagues a great example of a bad experiment, and that was to just say try it, to just legalize drugs. Switzerland tried it, it is a disaster. We do not need to be listening to those voices.

So again, Mr. Speaker, I salute the gentleman on what he has done and the leadership he has brought to this issue and to our Congress. He has done a remarkable job.

Mr. HASTERT. I thank the gentleman. One of the things that he was remiss in saying was that he was a sponsor of a bill that said we need to look at what is happening between our country and another country, a close neighbor, Mexico. He and a colleague from Florida, [Mr. SHAW], sponsored a very tough piece of legislation, and we are not done with that yet. So we really appreciate his efforts and his strong antidrug stance.

At this time I yield again to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. I wanted to again point out that this is not something new.

Interesting historical footnote: My first job here in Washington was Republican staff director of the Children Family Committee in Washington, and when the gentleman from Illinois [Mr. HASTERT], who had been involved in Illinois with human services issues like this, came and we worked together there, we were already focusing on alcohol abuse, on crack babies being abandoned in hospitals. The gentleman from Florida [Mr. MICA] who was a chief of staff here in Washington worked with a lot in drafting the original antidrug legislation through the 1980's in the U.S. Senate. This has been a longtime commitment, and we cannot back off as Americans.

And what is so frustrating when we hear these stories like in Switzerland is do we not learn anything? When you were saying that behavior was in effect being rewarded, what one thing we have learned over and over in our country, and I say this as somebody who has a German background and partly Swiss and who always looked at the Swiss as an international model. To hear this type of thing is so disturbing. We have seen it with gangs. If you say you are going to get such and such, what you get is more kids joining gangs to get the things. If you give benefits to things, people come and abuse it more. You do not get them off.

And I hope you will share more on some of those articles, but this is very disturbing that a country that has been held up as an example and held up in my family and our heritage and in our region and also in the whole world, I think this is really important that American companies help put the pressure on this, too, because it is a disturbing international trend, and I would hope that they can learn from some of our experiences here.

Mr. HASTERT. I would hope so, and I hope that they learn from our good experiences. But you are right on target. You know we have about 36, almost $37 billion of Swiss investment in the United States so we are dealing with Swiss companies day in and day out, and we probably ought to send a message.

You know, it is not everybody has been coopted in Switzerland by this. I worked with a woman by the name of Dr. Francesca Haller who had led this group, and it is called Youth Against Drugs. They have an initiative that they are trying to move in the Swiss legislature, the Swiss Parliament, even as we speak, and they hope that this referendum comes sometime in September or October, that time period, but they have 140-some thousand people who signed this petition saying: "You know, we don't want drugs in our country. We're going to fight to stop drugs."

But it is amazing, it is just absolutely amazing that, you know, there is three languages that are spoken in Switzerland, and the German-speaking newspapers have been for liberalization, and liberalization is a code word for legalization of drugs, and there has been a lot of suspicion that the people who serve on those boards of directors of newspapers are also boards of directors of the Swiss banks, Swiss banks that we have always held up as being the epitome of solid issues until of course the Nazi gold issue came forward. And now we know that Swiss banks harbored millions of dollars of drug money that came from Mexico and was in the account of a fellow by the name of Salinas that we have heard of before; and there is a real suspicion out there that the Swiss banks are pushing the Swiss newspapers, the German-speaking newspapers, to legalize drugs so that they can be the holders and the movers of illegal drug money. And if that comes and happens, it is just not a Swiss problem, it is not only an American problem, but it is a huge international problem, and I think that is something that we have to be very, very cautious against, we have to make sure that that does not happen, and it is just a huge thing that the world financial system has a possibility of getting embroiled in.

And as I said before, the ability to move money from country to country is the whole key to drug narco-traffickers being able to move their products from South America to the United States, from South America to Europe, from Asia and Thailand and Burma and India, you know, to Turkey, to Europe. All these things have these huge interconnections, and the drug trafficking is only the other side of the coin from the whole issue of being able to move money or drug laundering.

The gentleman from Florida.

Mr. MICA. If the gentleman will yield, I was quite shocked about this Swiss experiment, and I have also been a harsh critic of the lax attitude by both our President and this administration on the question of even a casual drug use, and that is not only translated into what our kids have heard in our country, but I was stunned to find out and get a copy of a billboard which is in downtown Zurich, Switzerland.

I do not know if my colleagues and the Speaker can see it, but this billboard in downtown Zurich says in German, and I will translate it; it says "Bill Clinton used one marijuana joint, and look, he's not a junkie. What's the big deal?"

And this is the kind of justification and commentary that was used to support this legalization effort in Switzerland in billboards, and here's a copy of one in Zurich, and I think that that is a sad commentary, and this program again has been such a failure that the Swiss are demanding that it be repealed. But when we have the leader of our administration sending the wrong signals by appointing a chief health officer, by saying that he might inhale, and then this is translated into support for a program in another country that is used for justification of legalization, we have the big problem.

So they have tried it, it does not work. Their countrymen are asking for this to be, for this program to be repealed, and we see a bad example that should not be repeated in this country.

The other thing, too, is the lax attitude is really creating even more problems in this country. There is a report just released by the Partnership for a Drug-free America and these statistics are startling.

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There are key findings of 9- to 12-year-olds. They found in this Partnership Study that more teenagers are using drugs. In 1996, last year, one in four children was offered drugs. That is 24 percent of the 9- to 12-year-olds in 1996 compared to 19 percent in 1993.

Trial use of marijuana last year increased among children from 2 to 4 percent. It is an increase of approximately 230,000 children experimenting in 1995 to 460,000 children experimenting in 1996. Eight percent of sixth graders had experimented with marijuana and 23 percent of seventh graders and 33 percent of eighth graders reported trying drugs. Only 29 percent of parents of children age 9 to 12 are talking to their kids about drugs, and fewer children are receiving information about the dangers of drugs.

So what we have done is put drugs on the back burner. We have not sent the right message. In fact, we have sent the wrong message, not only to our children, but now overseas, and we see the results and its tragic consequence in our youth population.

Mr. HASTERT. Mr. Speaker, my colleague was talking about schools. The

gentleman would be interested to know, my weekend in Switzerland and during that period I gave about three workshops and a major speech, and some interviews. I talked to one Swiss school teacher who taught in a grade school, public grade school. She lost her job for warning her students against heroin use after one of her students died from an overdose.

My colleagues can imagine the pressure that school boards are under as a result of this liberalization, when a teacher is fired who warns her students not to use drugs after one of their classmates died, and this is an insidious thing and it is happening right now.

One of the things that we have to look at, Mr. Speaker, and certainly my colleagues, if we do not agree with heroin legalization, and I have to say we talked about what happened in California on the legalization of marijuana for glaucoma and pain relief. Our friends in Arizona also passed legislation. The Arizona Legislature just turned that around, much to their credit.

But we can say something. I would say if we do not agree with heroin legalization, if we think that administering to thousands of young people this ability for them to get marijuana, using propaganda like the gentleman used, certainly is not a great credit to our country or to Switzerland.

I recommend that probably the Speaker and our colleagues, we ought to call the Ambassador, Alfred Defago, at the Embassy of Switzerland, right here in the United States, right here in Washington, if we believe that the Swiss companies, who have had the privilege of doing business in the United States, would know that we disapprove of heroin legalization. We expect them to speak out, too. They should speak out in this country and in Switzerland.

The laws that these companies have to live under here where we have drug protection for workers and people who buy the products that these workers make, they do not exist in Switzerland, because the Swiss have not signed an agreement with the European Union, and they have not signed an agreement for the other European communities such as Holland and Sweden, who have had to virtually clean up their act because of this cooperation between European nations.

Switzerland is completely independent, and the newspapers in Switzerland called the people who were trying to change the drug policy and push this issue of Youth Against Drugs, they called them just insidious names such as psycho gangs, because they were psychologists and doctors that are trying to change this situation.

I think Swiss companies who have had the privilege of doing business here need to hear it from American citizens who buy their products. Some of the Swiss companies that are involved are right here doing business in the United States.

For instance, Asea Brown Boveri in Virginia and Indiana and North Carolina; New Jersey, Florida, and Ohio. ABB should be asked to publicly oppose heroin legalization if they are going to continue to do business in America.

Mr. Speaker and my colleagues, let me add that a few other Swiss companies that do business in America should be asked to stand up and oppose heroin legalization in Switzerland. AGIE USA in North Carolina; Swiss Alamo Cement Co. in San Antonio, Texas; and ASA Aerospace Co. in New York; and the ASCOM Holding Company in Connecticut; all of those companies are doing business here and they have an influence back home.

The relationship between the United States and Switzerland is very close. We ought to stand up and say, no, in this country. They ought to stand up and say, no, in their own home country of Switzerland.

Mr. SOUDER. Mr. Speaker, I wanted to reinforce that point as we look at the heroin problem and what can become a rogue nation when one nation starts to legalize heroin and how it can move. I know you have been in Asia and I was in Thailand as well, and in the Golden Triangle area much of the heroin goes through. There is a concern, for example, in our agencies over there that as most likely normalization occurs with Vietnam, that the heroin could move down and move out of there.

Would it not be ironic with some of our slowdown in working with Vietnam, that we are concerned about how tourism might bring drugs in, but if we see these types of things happening in countries like Switzerland, we have to look at our relationships of how it goes over and comes back.

This is a critical international issue. Nigeria has turned into a rogue agency that I hear a lot about, and I appeal to a lot of my fellow Hoosiers. As I said, I am not Swiss bashing, I am part Swiss. Mostly German, part Swiss. In my district, Bern, for example, where I annually go for Swiss days, we have a lot of Anabaptists who are predominantly of Swiss and German background.

Here is something that you can do. Contact these companies. Ciba-Geigy is a very big company. We need to keep the pressure on some of these big companies. None of us can be accused of not keeping the pressure on here in America. We have an international stake in this, too.

I commend the gentleman and want to reinforce contacting these different companies. In Indiana, ABB is a direct company with involvement in Indiana. We just need to keep the pressure on. They are not necessarily hostile at this point, but we need to move on it.

Mr. HASTERT. Mr. Speaker, in Minnesota, our Members from Minnesota might consider calling the Brudier Co. and tell them to take a stand in favor of Youth Against Drugs in Switzerland. We talked about our tourist trade. Swiss hotels that are across this country in Chicago and other big cities, people who fly on Swiss Air, evidently in Switzerland, those pilots are not required to take drug tests because it is against the law in Switzerland to require somebody to take a drug test. I would think twice before I wanted to fly in that type of a situation.

People who go on ski vacations in Switzerland, there are literally tens of thousands of Americans that do it. There is no protection against the guy that runs the ski lifts and protect people on those slopes that somebody in there is not on drugs. Of all of the thousands of people who are drug free, it only takes one person who is a heroin addict who cannot be tested because of Swiss law and can cause real problems in those areas.

Mr. SOUDER. Mr. Speaker, it is inconceivable to me that they do not drug test pilots. That is literally flying blind. Sometimes ignorance is not bliss. In other words, it is like we do not want to know whether they are abusing drugs, and then if you see a society already having these trends, I would think it would be more of a reason to drug test, not less of a reason.

Mr. HASTERT. I think the pressure could start here in the United States. You talked about Ciba-Geigy. I think we could call the president of Ciba-Geigy, Doug Watson, and tell him to stand up against the legalization of drugs in Switzerland. Perhaps hundreds of other Swiss companies who benefit from trade from the United States, Americans Against Heroin Legalization could call the Swiss Bank, Swiss Credit, or Credit Swiss, the big bank that has been silent on this issue that certainly should be vocal in supporting Youth Against Drugs in Switzerland. Credit Swiss should be vocal in Switzerland to stop the legalization of heroin.

In New York, Robert O'Brien is the regional head of Credit Swiss. In Los Angeles, the Credit Swiss head is David Worthington. In Florida, Max Lutz, who represents senior management at Credit Swiss. Those people should know that Members of Congress do not really appreciate that.

Mr. MICA. Mr. Speaker, I would just like to, as we close up, remind folks that what this experiment in Switzerland, a beautiful country, you think of the Swiss Alps and mountain chalets and peaceful living.

Let me read from this. In one park, the number of addicts grew to 15,000 daily that came for free needles. Switzerland, again, a placid European tranquil State, Switzerland now has the highest heroin addiction rate in Europe

and the second highest HIV infection. That is with the free needles, with the free heroin. So they have tried it. It is a disaster for their people.

We are joining their people who are now calling for a referendum to repeal this. Again, a good example of a program that went bad.

So I join my colleagues in whatever pressure we need to put on the Swiss, United States interests, we will do that. We are not going to let what happened there happen here, and this is the evidence as to why we should not let that take place.

Mr. HASTERT. Mr. Speaker, I think that is really an important point. I think that is one of the things we need to look at.

Mr. Speaker, for hundreds of years we looked to the Swiss for chocolate and we looked to them for Swiss watches and Swatches and things like that. We also respected the integrity of the Swiss banks.

During the Hitler era, the Jews trusted the Swiss to protect their accounts from the Nazis. However, after the war, the Swiss took bank deposits of murdered holocaust victims and funneled them to Swiss businessmen to cover assets seized by East European Communist regimes.

According to recent news reports, while the Swiss Bankers Association admits to $32 million in diverted deposits, the World Jewish Congress believes the figure may be as high as $7 billion. But in 1992, the Swiss bank secrecy laws, which had concealed the diversion of these funds, were repealed, and this change removed Switzerland from a short list of countries whose banks are capable of masking deposits delivered from such illicit sources as drug profits.

Some countries, like the Republic of Seychelles, have banking laws that permit large deposits of suspected money. Although there is no direct evidence that Switzerland may be joining these ranks, legalized drugs could normalize financial transactions with drug kingpins.

So one of the things we need to be careful of, if Switzerland does legalize drugs and legalize heroin, then the profits from those drugs can be moved into Swiss banks and that money can be transferred all over the world. Thus, the drug money that happens in the United States or Mexico or Thailand, moved into the wire system, moved to Swiss banks.

So I think that is something that is very, very treacherous, something that we need to be very, very careful about. Our committee will be looking into this, will be working on this, and I hope that we will have another special order on this issue.

I would encourage Mr. Speaker and all of the rest of my colleagues to be sensitive to this. Talk to these Swiss companies, be involved, and let us turn this around, turn it around in Switzerland because Switzerland is so important to this country. We can turn it around in this country as well.

We are not without fault, we have our problems, but we cannot let other countries slip into this type of a situation as well.

I certainly appreciate my colleagues from Indiana and Florida for joining us this evening on this very, very important issue.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOEKSTRA (at the request of Mr. ARMEY), for today, on account of illness in the family.

Mr. MANZULLO (at the request of Mr. ARMEY), for today, on account of illness in the family.

Mr. PORTER (at the request of Mr. ARMEY), for today, on account of medical reasons.

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of back pain.

Ms. VELÁZQUEZ (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mr. CLEMENT (at the request of Mr. GEPHARDT), for today, on account of official business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. PICKERING) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. HULSHOF, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. SKELTON.
Mr. MOAKLEY.
Mr. FARR.
Mr. KUCINICH.
Mr. DAVIS of Illinois.
Mr. HOYER.
Mr. DOYLE.
Mr. BERMAN.
Mr. FRANK of Massachusetts.
Mr. VENTO.
Mrs. THURMAN.
Mr. MCNULTY.
Mr. RAHALL.
Mr. VISCLOSKY.
Mr. KILDEE.

(The following Members (at the request of Mr. PICKERING) and to include extraneous matter:)

Mr. LEWIS of California.
Mr. EHRLICH.
Mr. DAN SCHAEFER of Colorado in two instances.
Ms. PRYCE.
Mr. GALLEGLY.
Mr. COOK.
Mr. SMITH of Michigan.
Mr. DAVIS of Virginia in two instances.
Mr. QUINN in two instances.
Mr. HERGER.
Mr. HOUGHTON.
Mr. SHUSTER.

(The following Members (at the request of Mr. SOUDER) and to include extraneous matter:)

Mr. NEY in two instances.
Mr. HYDE.
Mr. LANTOS.
Mr. HINOJOSA.
Mr. MENENDEZ in six instances.
Mr. FORD.
Mr. BALLENGER.
Mr. HOSTETTLER.
Ms. DEGETTE.
Mr. MILLER of California.
Mr. LAHOOD.
Mr. BLUNT.
Mr. THOMPSON.
Mrs. MORELLA.
Mr. CRANE.
Mr. COLLINS.
Mr. LEWIS of Georgia.
Ms. VELÁZQUEZ.
Mr. BROWN of California.
Mr. VISCLOSKY.
Mr. CLAY.
Mr. SHERMAN.
Mr. WELDON of Pennsylvania.
Mr. BLILEY.

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ADJOURNMENT

Mr. SOUDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock p.m.), under its previous order, the House adjourned until Monday, April 28, 1997, at 2 p.m.

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, April 18, 1997.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. §1383), I am transmitting the enclosed notice of adoption of amendments to the Procedural Rules of the Office of Compliance) for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed amendments be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

RICKY SILBERMAN,
Executive Director.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Amendments to Procedural Rules

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

Summary: After considering the comments to the Notice of Proposed Rulemaking published January 7, 1997 in the Congressional Record, the Executive Director has adopted and is publishing amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3). The amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999. Telephone No. 202–724–9250. TDD/TTY: 202–426–1912.

SUPPLEMENTARY INFORMATION

I. Background.

The Congressional Accountability Act of 1995 ("CAA" or "Act") was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the Legislative Branch. Section 303 of the CAA directs that the Executive Director of the Office of Compliance ("Office") shall, subject to the approval of the Board of Directors ("Board") of the Office, adopt rules governing the procedures for the Office, and may amend those rules in the same manner. The procedural rules currently in effect, approved by the Board and adopted by the Executive Director, were published December 22, 1995 in the Congressional Record (141 Cong. R. S19239 (daily ed., Dec. 22, 1995)). Amendments to these rules, approved by the Board and adopted by the Executive Director, were published September 19, 1996 in the Congressional Record (142 Cong. R. H10672 and S10980 (daily ed., Sept. 19, 1996)). The revisions and additions that follow establish procedures for consideration of matters arising under Parts B and C of title II of the CAA, which became generally effective January 1, 1997.

Pursuant to section 303(b) of the CAA, the Executive Director published for comment a Notice of Proposed Rulemaking ("NPR") in the Congressional Record on January 7, 1997 (143 Cong. R. S25–S30 (daily ed., Jan. 7, 1997)) inviting comments regarding the proposed amendments to the procedural rules. Four comments were received in response to the NPR: Three from Congressional offices and one from a labor organization. After full consideration of the comments received, the Executive Director has, with the approval of the Board, adopted these amendments to the procedural rules.

II. Consideration of Comments and Conclusions Regarding Amendments to Existing Rules.

A. Section 1.04(d)—Final Decisions.

One commenter noted that, although section 1.04(d) provides that the Board will make public final decisions in favor of a complaining covered employee, or charging party under section 210 of the CAA, as well as those that reverse a Hearing Officer's decision in favor of a complaining employee or charging party, section 1.04(d) does not specifically provide that decisions in favor of an employing office will be made public. Rather, such decisions may be made public in the discretion of the Board. The commenter suggested that the rules should provide either that all or none of the decisions be made public, asserting that, if section 1.04(d) were not so modified, there would be "inconsistent access" to decisions and "the impression that the Board's procedures are weighted against employing offices." Proposed section 1.04(d) is identical to section 416(f) of the CAA, and its language, therefore, should not and will not be altered, whatever the Board's ultimate practice with respect to the publication of decisions in favor of employing offices.

B. Section 1.07(a).

One commenter suggested that, if section 1.04(d) were not modified to provide for publication of all decisions, the term "certain final decisions" in section 1.07(a) should be defined and procedures should be established to challenge Board determinations regarding the publication of decisions. Section 1.07(a) has been modified to make it clear that the referenced final decisions are those described in section 416(f) of the CAA. As section 416(f) of the CAA makes clear which final decisions must be made public and grants the Board complete discretion as to publication of other final decisions, procedures for challenging determinations regarding publication are not warranted.

C. Section 5.01—Complaints.

For the reasons set forth in Section III.C.10., *infra*, section 5.01(b)(2) will not be modified to require the General Counsel to conduct a follow-up inspection as a prerequisite to filing a complaint under section 215 of the CAA, as requested by a commenter.

D. Section 5.04—Confidentiality.

One commenter suggested that section 5.04 be modified to clarify that proceedings before Hearing Officers and the Board are not confidential. However, with certain exceptions, pursuant to section 416(c) of the CAA, such proceedings are confidential and, therefore, the proposed rule cannot be modified as suggested by the commenter. However, the rule will be clarified to note the statutory exceptions to the confidentiality requirement. In addition, at the suggestion of another commenter, the rule will be modified to cross-reference sections 1.06, 1.07 and 7.12 of the procedural rules, which also relate to confidentiality.

III. Consideration of Comments and Conclusions Regarding Section 215 Procedures.

A. Promulgation of the proposed amendments as substantive regulations under section 304.

Two commenters restated objections to the Board's decision in promulgating its substantive section 215 regulations (143 Cong. R. S61, S63 (daily ed., Jan. 7, 1997)) not to adopt the Secretary's rules of practices and procedure for variances under the OSHAct (part 1905, 29 C.F.R.), and the Secretary's regulations relating to the procedure for conducting inspections, and for issuing and contesting citations and proposed penalties under the OHSAct (part 1903, 29 C.F.R.) as regulations under section 215(d)(2) of the CAA. The arguments offered by the commenters are substantially the same as those rejected by the Board in its rulemaking on this issue (143 Cong. R. at S63). The Board has fully explained its decision not to adopt Parts 1903 and 1905, 29 C.F.R., as regulations under section 215(d) of the CAA, and for rejecting the arguments made by the commenters. The Board did not consider the Secretary's regulations governing inspections, citations, and variances to be outside the scope of rulemaking under section 304 because they were "procedural" as opposed to "substantive." Instead, the Board did not adopt these regulations because they were promulgated to implement sections 8, 9, and 10 of the OSHAct, statutory provisions which are not "referred to in subsection (a)" of section 215. Accordingly, these regulations are not within the scope of the Board's rulemaking authority under section 215(d)(2). 143 Cong. R. at S63–64. Thus, the question whether the proposed regulations should have been issued under section 304 of the CAA cannot be addressed by the Executive Director in the context of this rulemaking.

Because the Board has determined that regulations covering variances, citations, and notices cannot be issued under section 215(d), the question is whether such regulations may be issued by the Executive Director under section 303. The essence of the commenters' argument in this rulemaking is that the Executive Director cannot do so because the procedures affect substantive rights of the parties. The commenters' position is based on the substance-procedure distinction that they believe demarcates the boundary between rulemaking under sections 215(d) and 304 and rulemaking under section 303.

As noted above, the Board did not exclude the subjects of variances, citations, and notices from its rulemaking based on a substance/procedure distinction, but because the Secretary's regulations covering these subjects were not within the scope of section 215(d). Similarly, the Executive Director is not barred from promulgating rules governing the procedures of the Office simply because those procedures might affect the substantive rights of the parties.

Contrary to the commenters' arguments, the Board's earlier statement (in the context of its rulemaking under section 220(d) of the CAA) that rules governing procedures can be substantive regulations is not controlling with respect to the present issue. In its rulemaking proceeding under section 220(d), the Board determined that the subject matter of the Federal Labor Relations Authority's regulations, including certain regulations purporting to govern procedures of the Authority, were within the plain language setting forth the scope of rulemaking under section 220(d). The question raised by the commenters in that rulemaking was whether regulations falling within the scope of section 220(d) were nevertheless excluded because of their procedural label or character. The Board decided that they were not so excluded, and its statement that procedural rules can be considered substantive regulations was made in that context. *See* 142 Cong. R. S5070, 5072 (daily ed., May 15, 1996). Conversely, in its rulemaking under section 215(d), the Board determined that certain regulations were *not* within the scope of rulemaking under section 215(d), and it rejected the argument that regulations not falling within the scope of section 215(d) should nevertheless be included because of their substantive label or character. Thus, contrary to the commenters' arguments, there is no inconsistency in the underlying rationale of the Board in these two rulemakings. The Board's preambulatory remarks as part of the section 220(d) rulemaking seized upon by

the commenters, when read in context, do not control the question here.

The question whether these rules can be promulgated under section 303 must begin and end with the language of the statute. Section 303(a) provides that "[t]he Executive Director shall, subject to approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record." 2 U.S.C. §1383(a). The regulations in issue plainly meet these criteria. So long as the Executive Director's regulations meet these criteria, the regulations may be promulgated under this authority, whether they affect substantive rights or not.

Given the Board's decision not to promulgate regulations governing the subject of variances, citations, and notices under section 215(d), if the Executive Director accepted the commenters' arguments and did not issue these rules under section 303, it would mean, for example, that no procedures would exist by which variances may be considered by the Board. The Executive Director believes that such a procedure should be provided employing offices. Because promulgation of such procedures is within the scope of the Executive Director's rulemaking under section 303, there is no basis upon which the Executive Director should refuse to address these matters under section 303.

B. References to the General Counsel's designees.

Two commenters argued that references in the regulations to "designees of the General Counsel" are inappropriate on the theory that the CAA does not authorize the General Counsel to delegate his duties. To the extent that the commenters are arguing that the General Counsel is prohibited from assigning or designating others to perform the inspections and other responsibilities under section 215 of the CAA, such an argument is refuted by section 302(c)(4) of the CAA, which expressly authorizes the General Counsel to "appoint * * * such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties." 2 U.S.C. §1382(c)(4). Similarly, 215(c) of the CAA provides that the General Counsel exercises the "authorities granted to the Secretary of Labor" by subsections (a), (d), (e), and (f) of section 8 of the OSHAct, and sections 9 and 10 of the OSHAct. Those sections in turn recognize that the Secretary may act personally or through an "authorized representative" with respect to many of these functions. See 29 U.S.C. §§657(e),(f), and 658(a). Thus, the proposed regulation is not inconsistent with section 215 of the provisions of the OSHAct incorporated thereunder.

One of the commenters also argued that the General Counsel may not utilize detailees or consultants in carrying out his duties, because section 302 of the CAA gives the Executive Director the authority to secure the use of detailees. However, section 302 does not limit the functions to which these detailees may be assigned within the Office. Similarly, although the Executive Director may procure the temporary services of consultants "[i]n carrying out the functions of the Office," nothing in the CAA suggests that the Executive Director is barred from obtaining and approving the services of consultants to assist the General Counsel in performing his duties. Indeed, the comprehensive inspections of Legislative Branch facilities were performed in large part through the use of detailees and consultants assisting the General Counsel. The commenters were aware of this use of consultants for this purpose. No claim was made that such inspections could not be conducted with the assistance of consultants.

More to the point, the General Counsel is statutorily responsible for exercising the authorities and performing the duties of the General Counsel as specified in section 215 and is accountable for decisions made therein. The proposed regulatory sections do not purport to delegate the General Counsel's statutory responsibilities to others. The regulations simply recognize that the General Counsel may utilize others to enable him to perform certain functions within those responsibilities (such as assisting in conducting investigations and inspections).

The commenters' implicit argument that the CAA requires the General Counsel to *solely* and *personally* perform those functions is, quite simply, wrong. It is clear that "those legally responsible for a decision must in fact make it, but that their method of doing so—their thought processes, their reliance on their staffs—is largely beyond judicial scrutiny." *Yellow Freight System, Inc.* v. *Martin*, 983 F.2d 1195, 1201 (2d Cir. 1993), *quoting KFC National Management Corp.* v. *NLRB*, 497 F.2d 298 (2d Cir. 1974), *cert. denied*, 423 U.S. 1087 (1976). Thus, the decision to assign or designate others (such as other attorneys in the Office, detailees or others) to perform functions related to the General Counsel's ultimate decisions under section 215 (e.g., whether to issue a citation, a notice and/or a complaint in a particular case) is not prohibited by the CAA or subject to review by individual employing offices, as argued by the commenters.

One of the commenters argued that employing offices should have an opportunity to pass upon the qualifications of individuals chosen by the General Counsel to conduct inspections through a specified process. Nothing in the CAA or the OSHAct authorizes adoption of such a procedure, and such a provision would interfere unduly with the General Counsel's enforcement responsibilities. Adoption of procedures to micro-manage the General Counsel's operations in this area would be improper in the absence of any statutory authority.

C. Inspections, Citations, and Complaints.

1. Objection to inspection, entry not a waiver, advance notice of inspection, requirement of ex parte administrative inspection warrants (sections 4.04, 4.05, and 4.06).

Three commenters requested that the Executive Director issue regulations requiring the General Counsel to provide advance notice of an inspection to employing offices or to seek a warrant before conducting a nonconsensual search of employing offices. One commenter argued that the Supreme Court's decision in *Marshall* v. *Barlow's, Inc.*, 436 U.S. 307 (1978), which held that the Fourth Amendment's protection against unreasonable searches and seizures applies to nonconsensual inspection of private commercial property, applies to administrative inspections of legislative branch employing offices by another legislative branch entity; the commenter further argued that the rules should require that the General Counsel first notify the employing office of the intent to inspect, obtain written consent prior to inspections, and schedule an appointment with employing offices for such inspections. The other commenter argued that, regardless of whether the Fourth Amendment's protection applies equally to congressional offices, similar privacy interests apply to employing offices to enable them to conduct their legislative business free from unreasonable searches. These commenters asked that the procedural rules include provisions similar to those of section 1903.4 of the Secretary's rules, which were amended to authorize the Secretary to secure an ex parte administrative warrant upon refusal to consent to a search in response to the Barlow's decision. See 45 Fed. Reg. 65916 (Oct. 3, 1980) (Final rule amending section 1903.4, 29 C.F.R.). The third commenter also requested that the final regulations include the compulsory process/ex parte administrative warrants provisions of section 1903.4, but did not explain how inclusion of such a provision would be authorized by section 215 of the CAA.

It is not entirely clear that the Fourth Amendment's protections that bar the warrantless search of commercial premises apply (or apply with equal force) to inspections of a legislative branch office by another legislative branch entity, albeit an independent one. The protections of the Fourth Amendment were designed to protect privacy interests against intrusion by the government; it is, therefore, not obvious that they apply to prohibit one legislative branch enforcement entity (the General Counsel) from conducting an investigation of another legislative branch entity (an individual employing office). To be sure, there may be portions of an employing office to which individual persons' expectations of privacy may attach. See, e.g., *O'Connor* v. *Ortega*, 480 U.S. 709 (1987) (expectation of privacy in public employee's desk, files, and areas within his exclusive control); *Schowengerdt* v. *General Dynamics Corp.*, 823 F.2d 1328, 1335 (9th Cir. 1987) (reasonable expectation of privacy found to exist in areas of government property given over to an employee's exclusive control). But it is questionable whether an employing office, as a covered entity (as distinguished from the individuals holding positions within the office or working there), would be found to possess a privacy right to be free from administrative inquiries authorized by a statute duly enacted by Congress. Moreover, section 215(f)'s requirement that the General Counsel conduct a comprehensive inspection of all covered employing offices and other covered facilities on a regular basis and at least once each Congress may well defeat an otherwise reasonable expectation of privacy in such offices and other facilities. See, e.g., *United States* v. *Bunkers*, 521 F.2d 1217, 1219-20 (9th Cir.) (search of postal worker's locker authorized by regulation), cert. denied, 423 U.S. 989 (1975); *United States* v. *Taketa*, 923 F.2d 665, 672 (9th Cir. 1991) (valid regulation may defeat an otherwise reasonable expectation of workplace privacy); see also *Donovan* v. *Dewey*, 452 U.S. 593 (1981) (legislative schemes authorizing warrantless administrative searches of commercial property do not necessarily violate the Fourth Amendment).

In any event, whether Barlow's and its progeny apply in the context of the CAA is a question that need not be decided here. Section 215 does not provide a mechanism by which warrants may be issued. Section 215 contemplates the assignment of hearing officers, but only after a complaint has been filed by the General Counsel. See 2 U.S.C. §1341(c)(3). Moreover, there is no provision in the CAA that would allow such applications to be heard by federal judges. Compare 2 U.S.C. §1405(f)(3) (authorizing federal district court to issue orders requiring persons to appear before the hearing officer to give testimony and produce records). Thus, there is no statutory basis upon which such a procedure could be adopted by the Executive Director.

The commenters incorrectly assume that, absent a warrant procedure, the General Counsel would nevertheless enter a workspace over the objection of the employing office/s with jurisdiction over the area or control of the space involved. Just as it would be improper to assume that employing offices would engage in a wholesale refusal to allow inspections, it cannot be assumed that the General Counsel will attempt to force inspectors into work areas over the employing office's objection. See 29 U.S.C. §657(a)(2) (Secretary authorized "to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner . . ."). In the typical case, the General Counsel can be expected to ascertain the reason for the refusal and attempt to secure voluntary consent to conduct the inspection. If the employing office continues to refuse an inspection, there are options presently available to the General Counsel to secure access to the space. These options would include, among others, seeking such consent from the relevant committee(s) of the Congress that have responsibilities for the office space or work area involved, and seeking consent from the Architect of the Capitol and/or other entities that have superintendence or other responsibility for and authority over the facility and access to and/or control of the space involved. If such options are unavailing, the General Counsel could simply note the refusal of the employing office to allow the inspection in, for example, the inspection report submitted to the Congress. Of course, the Office assumes that employing offices will not withhold their consent.

The commenters also argued that advance notice should be given by the General Counsel to conform to protections recognized in the private sector context. One of the commenters specifically requested that the rules require the General Counsel to first schedule an appointment with an employing office prior to an inspection. Although the commenters argued that such notice is consistent with practice under the OSHAct, advance notice of inspections is the *exception*, not the rule, at OSHA. *See* 29 C.F.R. §1903.6; OSHAct section 17(f). Moreover, in enacting the CAA, the Congress understood that its incorporation of the rights and protections of the OSHAct included the standard practice and procedure at OSHA that advance notice would not be given. *See* 142 Cong. R. S 625 (daily ed., Jan. 9, 1995) (section-by-section analysis of the CAA submitted by Senator Grassley) ("[T]he act does not provide that employing offices are to receive notice of the inspections."). Thus, the commenters' argument that advance notice of inspections is required by OSHA regulations and practice, or by the CAA, is not supported by the statute. Indeed, as one of the commenters acknowledged, its proposal requiring advance notice would require a re-writing of the inspection authority of section 8(a) of the OSHAct, applied by section 215, to read that the General Counsel is authorized "*upon the notice and consent of the employing office* to enter [without delay and] at reasonable times . . ." Adoption of such a rule, which is plainly at odds with the underlying statute, would be improper.

One of the commenters argued alternatively that proposed section 4.06 be modified to include the provisions of section 1903.6, which authorizes advance notice in certain specified circumstances. The provisions of section 1903.6, with appropriate modifications, will be included as part of the final regulations, since such an enforcement policy is not deemed to add to or alter any substantive provision in the underlying statute.

This commenter also requested that section 4.06 be modified to require the General Counsel to issue a written statement explaining why advance notice was not provided to the employing office. Nothing under the CAA or the OSHAct authorizes or suggests such a requirement, nor would any purpose of the CAA be served. Thus, no such modification will be made.

Finally, section 4.05 (Entry not a waiver) will be modified to specifically refer to section 215 of the CAA, as requested by a commenter.

2. References to recordkeeping requirements (sections 4.02 and 4.07).

Two commenters objected to references in proposed section 4.02 of the regulations to "records required by the CAA and regulations promulgated thereunder," and a similar reference in section 4.07, on the theory that no recordkeeping requirements, even those that are inextricably intertwined with the substantive health and safety standards of Parts 1910 and 1926, 29 C.F.R., may be imposed on employing offices under the CAA. The commenters presented no different arguments than those fully considered and rejected by the Board in promulgating its substantive section 215 regulations. *See* 142 Cong. R. at S63. Because the Board has adopted substantive health and safety standards which impose limited recordkeeping requirements on employing offices (e.g., rules relating to employee exposure records), such records are subject to review during an inspection. The Executive Director thus has no basis for the proposed deletion.

3. Security clearances (section 4.02).

Two commenters suggested that section 4.02 of the proposed regulation be amended to provide that the General Counsel or other person conducting a work site inspection obtain an appropriate security clearance before inspecting areas that contain classified information. The General Counsel reports that he is in the process of obtaining, through the appropriate security division of the United States Capitol Police, security clearances for the General Counsel and the General Counsel's inspection personnel to enable them to have access to such areas, if access is required as part of a section 215 inspection. Section 4.02, and other sections as appropriate, will be amended to state that the General Counsel and/or any inspection personnel will be required to either have or obtain appropriate security clearance, if such clearance is required for access to the workspaces inspected.

4. Requests for inspections by employing office (section 4.03).

One commenter noted that, although section 4.03(b) provides that employing office requests for inspections must be reduced to writing on a form provided by the Office, there is no requirement in section 4.03(a) that employee requests be submitted on an Office-provided form. Section 4.03(a) will be modified to provide that employee requests be reduced in writing on an Office-provided form. The commenter has asked that any form developed be submitted for review and comment from employing offices prior to its approval. Since the form is merely an investigative tool of the General Counsel, there is no reason to require that it be "approved" by the Board prior to issuance. Inspection forms and other similar documents relating to the General Counsel's enforcement procedures are available from the General Counsel.

5. Scope and nature of inspection (sections 4.03 and 4.08).

One commenter has asked that section 4.03(2) be modified to provide that inspections will be limited to matters included in the notice of violation. Section 4.03(2) is based on virtually identical provisions of the Secretary's regulations, 29 C.F.R. §1903.11. Nothing in section 215 or the provisions of the OSHAct incorporated thereunder would authorize placing a limitation on the General Counsel's inspection authority, as proposed by the commenter.

Similarly, section 8(e) of the OSHAct, 29 U.S.C. §657(e), and proposed section 4.08 provide that a representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the inspector, and section 4.08 will not be modified to provide that parties be given the opportunity to seek immediate review of the General Counsel's determinations regarding authorized representatives, or to provide specific standards by which the General Counsel may deny the right of accompaniment, or that parties have a "fair" opportunity to accompany the General Counsel's designee during the inspection, as suggested by two commenters. As with the proposed modifications of section 4.03, nothing in section 215, the OSHAct, or the Secretary's rules and practice under the OSHAct, would authorize placing these limitations on the General Counsel's enforcement authorities. On the contrary, such a modification provides parties with a tool for delay, allowing an office to forestall prompt inspection and abatement of hazards while the parties litigate the issue of whether an employing office was denied a "fair" opportunity for accompaniment or whether a representative of employees is an appropriately authorized representative. Nothing in the OSHAct, as applied by section 215 of the CAA, would sanction such a rule.

6. Inspector compliance with health and safety requirements (section 4.07).

Two commenters requested that section 4.07 of the proposed regulations add the provisions of 29 C.F.R. §1903.7(c), which provide that health and safety inspectors take reasonable safety precautions to ensure that their inspection practices are not hazardous and comply with the employer's safety and health rules at the work site. This enforcement policy will be included within the final regulations.

7. Consultation with employees (section 4.09).

Section 4.09 tracks the provisions of section 1903.10 of the Secretary's regulations, which provide that inspectors may consult with employees concerning health and safety and other matters deemed necessary for an effective and thorough inspection, and that afford employees an opportunity to bring violations to the attention of the inspectors during the course of an inspection. A commenter has requested that section 4.09 be modified to require specific limits on the time, place, and manner of such consultations, and that employees be required to first put in writing violations that they intend to bring to the attention of inspectors during the course of an inspection. Nothing in section 215 of the CAA or the provisions of the OSHAct incorporated thereunder requires or permits the modifications requested by the commenter.

8. Inspection not warranted; informal review (section 4.10).

A commenter requested that proposed section 4.10(a) be revised to state that, after conducting informal conference to review a

decision not to conduct an inspection of a work site, the General Counsel "shall" (rather than "may") affirm, modify or reverse the decision. The final regulations will include the change suggested by the commenter.

A second commenter requested that the final regulations include the provisions of 29 C.F.R. §1903.12(a), which permit parties to make written submissions as part of the informal conference. The final regulations will include these provisions, as suggested by the commenter.

9. Citations (section 4.11).

Two commenters requested that section 4.11 of the final regulations include the language of 29 C.F.R. §1903.14(a) that "No citation may be issued under this section after the expiration of six months following the occurrence of any violation." The commenters argued that the proposed regulations "omit this important substantive right" under section 9(c) of the OSHAct. Section 9(c) of the OSHAct is a temporal limitation on the ability of the Secretary to issue a citation and thus is included within the scope of section 215(c). It applies regardless of whether or not a procedural regulation "implements" it. Nevertheless, because the proposed provision simply tracks the clear and unambiguous statutory provision of section 9(c) of the OSHAct and does not purport to create or modify any substantive right, it will be included in section 4.11 of the final regulations.

One commenter requested that section 4.11(a), which authorizes the General Counsel to issue citations or notices even if the employing office immediately abates, or initiates steps to abate the violation, be deleted. However, this provision tracks the language of section 1903.14(a) and is consistent with section 215 of the CAA. Thus, it will not be modified as requested by the commenter.

10. De minimis violations (sections 4.11 and 4.13).

Two commenters argued that the Executive Director should adopt provisions regarding "de minimis" violations, consistent with section 9(a) of the OSHAct and 29 C.F.R. §§1903.14 and 1903.16. Section 9(a) of the OSHAct provides, in relevant part, that "[t]he Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to deminimis violations which have no direct or immediate relationship to safety or health." Although OSHA formerly required inspectors to issue citations on de minimis violations under this provision, the practice has been abandoned. OSHA Field Inspection Reference Manual ch. III.C.2.g. (1994) ("De Minimis violations . . . shall not be included in citations. . . . The employer should be verbally notified of the violation and the [Compliance Safety and Health Officer] should note it in the inspection case file."). Thus, a provision enabling the General Counsel to issue notices for de minimis violations is of little practical utility under section 215. However, the text of section 215(c)(2)(A) authorizes the General Counsel to issue a "citation or notice," which reasonably would include a notice of de minimis violations. Including such a provision in these regulations is consistent with the CAA, and does not create a substantive requirement. Thus, sections 4.11 and 4.13 will be modified to provide that the General Counsel may issue notices of de minimis violations in appropriate cases, as requested by the commenters.

11. Failure to correct a violation for which a citation has been issued; notice of failure to correct a violation; complaint (section 4.14).

Section 4.14(a) of the proposed regulations provide that, "if the General Counsel determines" that an employing office has failed to correct timely an alleged violation, he or she "may" issue a notification of such failure before filing a complaint against the office. Two commenters argued that the proposed regulations are contrary to section 215(c)(2)(B) of the CAA because they do not require the General Counsel to issue a notification before filing a complaint. Similarly, these commenters argued that section 5.01 be modified to require the General Counsel to conduct a follow-up inspection as a prerequisite to filing a complaint under section 215. Nothing in section 215(c)(2)(B) requires the General Counsel to issue a notification or to conduct a follow-up inspection prior to filing a complaint. Instead, section 215 grants the General Counsel the authority to file a complaint after issuing "a citation or notification," if the General Counsel determines that a violation has not been corrected. 2 U.S.C. §1341(c)(3).

The section-by-section analysis of the CAA explains the basis for section 215(c)(2)'s language authorizing the General Counsel to issue a citation or a notice. It makes clear that section 215 does not require the General Counsel to issue a notification prior to filing a complaint where an employing office has failed to abate a hazard outlined in the citation: "[Under section 215] the general counsel can issue a citation and proceed to file a complaint if the violation remains unabated. Or the general counsel may file a notification after the citation is not complied with, and then file a complaint. The general counsel may not file a notification without having first filed a citation which has not been honored. The choice whether to follow a citation with a complaint once it is evident that there has not been compliance, or to file a notification before the filing of the complaint, will normally turn or whether the general counsel believes that good faith efforts are being undertaken to comply with the citation, but the time period for complete remediation of the citation period has expired." 141 Cong. R. S621, S625 (daily ed. Jan. 9, 1995) (section-by-section analysis).

Therefore, because the commenters' requested change is contrary to the statutory procedure outlined in section 215, it may not be adopted as a procedure of the Office under section 303.

12. Informal conferences (section 4.15).

One commenter requested that section 4.15 be modified to require the General Counsel to allow participation in a formal conference by persons other than the requesting party (complaining employee or employing office). Section 4.15, which states that such participation is "at the discretion of the General Counsel," tracks section 1903.19 of the Secretary's regulations and is consistent with section 215 of the CAA. Thus, it will not be modified as requested by the commenter. However, as requested by the commenter, section 4.15 will be revised to clarify that any settlement entered into between the parties to such a conference shall be subject to the approval of the Executive Director, to conform to section 414 of the CAA.

13. Notice of contest.

A commenter argued that the procedural regulations should provide a procedure for filing notices of contest, as outlined in 29 C.F.R. §1903.17 and consistent with section 9(a) of the OSHAct. However, the changes proposed by the commenter would flatly contradict the statutory procedures outlined in section 215. As the Board noted in its rulemaking under section 215, the statutory enforcement scheme under section 215 differs significantly from the comparable statutory provisions of the OSHAct.

The enforcement procedures of the OSHAct are set forth in sections 8, 9, 10, and 11 of the OSHAct, 29 U.S.C. §§657–660. Section 8(a) of the OSHAct authorizes the Secretary's inspectors to conduct reasonable safety and health inspections at places of employment. 29 U.S.C. §657(a). If a violation is discovered, the inspector may issue a citation to the employer under section 9(a) of the OSHAct, specifically describing the violation, fixing a reasonable time for its abatement and, in his or her discretion, proposing a civil monetary penalty. 29 U.S.C. §§658, 659. Section 8(c) permits an employer to notify the Secretary that it intends to contest the citation. 29 U.S.C. §659(c). If the employer does not contest the citation within 15 working days, it becomes a final abatement order and is "not subject to review by any court or agency." 29 U.S.C. §659(b). Section 10(c) of the OSHAct also gives an employee or representative of employees a right to contest the period of time fixed in the citation for abatement of the violation. In either event, the Occupational Safety and Health Review Commission must afford the employer and/or the employee "an opportunity for a hearing." 29 U.S.C. §659(c). Section 10(c) also requires the Commission to provide affected employees or their representatives "an opportunity to participate as parties to hearings under this subsection." *Id.*

Rather than either incorporating by reference the statutory enforcement procedures of the OSHAct described above or adopting them *in haec verba* in section 215, the CAA provides a detailed statutory enforcement scheme which departs from the OSHAct in several significant respects. Section 215(c) makes reference to sections 8(a), 8(d), 8(e), 8(f), 9, and 10 of the OSHAct, but only to the extent of granting the General Counsel the "authorities of the Secretary" contained in those sections to "inspect and investigate places of employment" and to "issue a citation or notice * * * or a notification" to employing offices. Section 215(c) (1), (2). Other portions of sections 8, 9, and 10 of the OSHAct that do not relate to the Secretary's authority to conduct inspections or to issue citations or notices are not incorporated into sections 215(c). Instead, section 215(c) provides a detailed procedure regarding inspections and citations which, although modeled on sections 8, 9, and 10 of the OSHAct, differs in several significant respects from the OSHAct enforcement scheme.

For example, under section 10 of the OSHAct, the employer must initiate a contest within 15 days of receipt to prevent the citation from becoming final; under section 215(c), the General Counsel must initiate a complaint to obtain a final order against an employing office that fails or refuses to abate a hazard outlined in the citation. Section 10(c) of the OSHAct gives employees and representatives of employees a right to participate as parties before the Occupational Safety and Health Appeals Review Board; section 215(c)(5) does not provide such party participation rights to employees and suggests that only the General Counsel and the employing office may participate in any review of decisions issued under section 215.

Section 215(c) of the CAA outlines the specific procedures regarding variances, citations, notifications and hearings under section 215. Any procedural regulations adopted by the Executive Director under section 303 of the CAA cannot conflict with these statutorily-mandated procedures. See *United States* v. *Fausto*, 108 S.Ct. 668, 677 (1988) (the provision of detailed review procedures provides strong evidence that Congress intended such procedures to be exclusive); *Block* v. *Community Nutrition Institute*, 467 U.S. 340, 345–48 (1984) (omission of review procedures for consumers affected by milk market orders, coupled with the provision of such procedures for milk handlers so affected, was strong evidence that Congress intended to preclude consumers from obtaining judicial review); *Whitney Nat. Bank* v. *Bank of New Orleans & Tr. Co.*, 85 S.Ct. 551, 557 (1965) (where Congress has provided statutory review procedures, such procedures are to be exclusive).

Given the fact that section 215(c) sets forth a detailed enforcement procedure which is significantly different than the procedures of the OSHAct, it is reasonable to conclude that Congress did not intend the Board to presume that the regulations regarding such procedures would be "the same" as the Secretary's procedures, as they generally must be if they fall within the Board's substantive rulemaking authority under section 215(d)(2). See *Lorillard* v. *Pons*, 434 would be "the same" as the Secretary's procedures, as they generally must be if they fall within the Board's substantive rulemaking authority under section 215(d)(2). See *Lorilard* v. *Pons*, 434 U.S. 575(1978) (manner in which Congress employed incorporation by reference evidence an intent on the part of Congress to assimilate the remedies and procedures of the FLSA into the ADEA, except in those cases where, in the ADEA itself, Congress made plain its decision to follow a different course than that provided for in the FLSA). Thus, the commenters' interpretation is not supported by section 215.

Here, there is no statutory authority for the filing and determination of notices of contest by employing offices. The only way in which a safety and health issue can be presented to a hearing officer is in connection with a complaint filed by the General Counsel. These procedural regulations cannot be used to engraft provisions not provided for in the statute and, more importantly, which conflict with the procedures expressly set forth therein. For the same reasons, there is no statutory basis upon which to create a procedure allowing an employing office to petition for modification of abatement dates (29 C.F.R. §1903.14a), as requested by this commenter.

14. Trade secrets.

A commenter requested that the regulations include the provisions of section 1903.7, 29 C.F.R., relating to protection of trade secrets information. Section 1903.7 implements section 15 of the OSHAct, which provides that information obtained by the Secretary in connection with any inspection or proceeding under the OSHAct "which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code" shall be considered confidential. It is not clear that section 15 of the OSHAct applies to proceedings under section 215 of the CAA. However, the current procedural rules attempt to protect privileged or otherwise confidential information from disclosure in CAA proceedings. If any employing office possessed information that constituted a "trade secret" within the meaning of section 15, the Office's procedures recognize that confidential or privileged materials or other information should be protected from disclosure in appropriate circumstances. See section 6.01(c)(3) and (d) of the Procedural Rules (authorizing hearing officers to issue any order to prevent discovery or disclosure of confidential or privileged materials or information, and dealing with claims of privilege). If employing offices maintain information that would constitute "trade secrets" within the meaning of section 15 of the OSHAct, protection against disclosure of such information should be extended to inspections and other information gathering under section 215. Accordingly, the final rules will include, with appropriate modification, the provisions of section 1903.7 as section 4.07(g).

D. Variances.

1. Publication of variance determinations and notices (sections 4.23, 4.25, 4.26, and 4.28).

Two commenters requested that sections 4.23, 4.25, 4.26, and 4.28 specify the manner in which the Board's final determinations and other notices will be made public, either by publication in the Congressional Record or its equivalent. The regulations will be amended to provide that the Board shall transmit a copy of the final decision to the Speaker of the House and President pro tempore of the Senate with a request that the order be published in the Congressional Record. Since the CAA does not require publication of such orders in the Congressional Record, the decision to publish in the Congressional Record is solely within the discretion of Congress.

2. Hearings (sections 4.25 and 4.26).

Two commenters have suggested that the provisions regarding referral of matters appropriate for hearing to hearing officers in sections 4.25 and 4.26 of the proposed regulations be revised to replace "may" with "shall" to conform to the language of section 215. They further suggest that the references in section 4.25 and 4.26 requiring applicants to include a request for a hearing be deleted as unnecessary. After considering these comments and the statutory language, the regulations will be amended to provide for referral to hearing officers.

E. Enforcement policy regarding employee rescue activities.

Two commenters argued that the regulations should include the provisions of subsection (f) of 29 C.F.R. §1903.14, which provides that, with certain exceptions, no citations may be issued to an employer because of rescue activity undertaken by an employee. However, this provision was adopted by the Secretary as "a general statement of agency policy" and is "an exercise of OSHA's prosecutorial discretion in carrying out its enforcement responsibilities" under the OSHAct. See "Policy on Employee Rescue Efforts," 59 Fed. Reg. 66612 (Dec. 27, 1994) (amending 29 C.F.R. pt. 1903 to add section 1903.7; noting that rule is effective immediately upon publication because "the rescue policy simply states OSHA's enforcement policy" regarding citations involving employee rescue activities). Because it is an enforcement policy, the Secretary reserves the right to modify it "in specific circumstances where the Secretary or his designee determines that an alternative course of action would better serve the objectives of the Act." 29 C.F.R. §1903.1. The General Counsel has stated his intention to follow, where not inconsistent with the CAA, the enforcement policies of the Secretary, which would include the policy on employee rescue activities. Thus, this policy will be expressly stated as part of the final procedural regulations at section 4.11(f), as requested by the commenters. However, so that such policies are consistent with the Secretary's part 1903 regulations, the final regulations will add the proviso of section 1903.1, 29 C.F.R., that, to the extent statements in these regulations at section 4.01 set forth general enforcement policies they may be modified in specific circumstances by the General Counsel on the same terms as similar enforcement policies of the Secretary.

F. Regulations governing inspections, citations, and notices in the case of Member retirement, defeat, and office moves.

A commenter has requested regulations that would specify the employing office to whom the General Counsel should issue citations and notices in cases where circumstances have changed since the time of the alleged violation, such as when a Member dies, retires, or is not reelected, or when an employing office moves from one office to another. After considering the matter, the Executive Director has determined that it would be inappropriate to issue procedural rules governing these issues. The hypothetical situations posited by the commenter are better addressed by the General Counsel and ultimately, the Board, in the context of actual cases. When and if the situations hypothesized by the commenter occur, the General Counsel and the Board are better positioned to make determinations based on the facts presented. See *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 294–95 (1974) (use of adjudication rather than rulemaking within agency discretion).

G. Technical and nomenclature changes.

Commenters have suggested a number of technical and nomenclature corrections in the language of the proposed regulations. The Executive Director has considered all of these suggestions and, as appropriate, has adopted them.

H. Additional comments.

One of the commenters requested that the Executive Director review several proposed changes in procedural rules suggested by commenters in response to the earlier July 11, 1996 Notice of Proposed Rulemaking and either promulgate regulations to address these issues or supply a written response as to why such regulations are not necessary. These suggestions included: (1) changes in the special procedures for the Architect of the Capitol and Capitol Police; (2) a rule allowing parties to negotiate changes to the Agreement to Mediate; (3) a procedure by which the parties, instead of the Executive Director, would select Hearing Officers; (4) procedures by which the Office would notify employing offices of various matters; (5) additional requirements for the filing of a complaint; (6) changes in counseling procedures; and (7) a procedure which would allow parties to petition for the recusal of individual Board members.

As stated in the preamble of the Notice of Adoption of Amendments to Procedural Rules, such comments and suggestions were not the subject of or germane to the proposals made in that rulemaking. 142 Cong. R. H10672, H10674 and S10980, S10981 (daily ed., Sept. 19, 1996). Nor are they here. The Notice of this rulemaking clearly stated that the proposed revisions and additions to the procedural rules were intended to provide for the implementation of Parts B and C of title II of the CAA, which were generally effective on January 1, 1997, and to establish procedures for consideration of matters arising under those parts.

As stated in the September 19, 1996 Notice of Adoption of Amendments, the Office, like most agencies, reviews its policies and procedures on an ongoing bases. Where its experience suggests that additional or amended procedures are needed, it will modify its policies and propose amendments to its procedures, to the extent appropriate under the CAA.

Signed at Washington, D.C. on this 18th day of April, 1997.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

IV. Text of adopted amendments to procedural rules.

§ 1.01 Scope and Policy.

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Parts A, B, C, and D of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for variances and compliance, investigation and enforcement under Part C of title II and procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§ 1.02(i).

(i) *Party.* The term "party" means: (1) an employee or employing office in a proceeding under Part A of title II of the Act; (2) a charging individual, an entity alleged to be responsible for correcting a violation, or the General Counsel in a proceeding under Part B of title II of the Act; (3) an employee, employing office, or as appropriate, the General Counsel in a proceeding under Part C of title II of the Act; or (4) a labor organization, individual employing office or employing activity, or, as appropriate, the General Counsel in a proceeding under Part D of title II of the Act.

§ 1.03(a)(3).

(3) *Faxing documents.* Documents transmitted by FAX machine will be deemed filed on the date received at the Office at 202–426–1913, or, in the case of any document to be filed or submitted to the General Counsel, on the date received at the Office of the General Counsel at 202–426–1663. A FAX filing will be timely only if the document is *received* no later than 5:00 PM Eastern Time on the last day of the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner, provided that the status report indicates the date of the FAX, the receiver's FAX number, the number of pages included in the FAX, and that transmission was completed.

§ 1.04(d).

(d) Final decisions. Pursuant to section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee, or in favor of the charging party under section 210 of the Act, or reverses a Hearing Officer's decision in favor of a complaining covered employee or charging party, shall be made public, except as otherwise ordered by the Board. The Board may make public any other decision at its discretion.

§ 1.05(a).

(a) An employee, other charging individual or party, a witness, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

§ 1.07(a).

(a) *In General.* Section 416(a) of the CAA provides that counseling under section 402 shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations. Section 416(b) provides that all mediation shall be strictly confidential. Section 416(c) provides that all proceedings and deliberations of hearing officers and the Board, including any related records shall be confidential, except for release of records necessary for judicial actions, access by certain committees of Congress, and, in accordance with section 416(f), publication of certain final decisions. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215. See also sections 1.06, 5.04 and 7.12 of these rules.

Subpart D—Compliance, Investigation, Enforcement and Variance Procedures Under Section 215 of the CAA (Occupational Safety and Health Act of 1970)

Inspections, Citations, and Complaints

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INSPECTIONS, CITATIONS AND COMPLAINTS

§ 4.01 Purpose and scope.

The purpose of sections 4.01 through 4.15 of this subpart is to prescribe rules and procedures for enforcement of the inspection and citation provisions of section 215(c)(1) through (3) of the CAA. For the purpose of sections 4.01 through 4.15, references to the "General Counsel" include any authorized representative of the General Counsel. In situations where sections 4.01 through 4.15 set forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the General Counsel or the General Counsel's designee determines that an alternative course of action would better serve the objectives of section 215 of the CAA.

§ 4.02 Authority for Inspection.

(a) Under section 215(c)(1) of the CAA, upon written request of any employing office or covered employee, the General Counsel is authorized to enter without delay and at reasonable times any place of employment under the jurisdiction of an employing office; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employing office, operator, agent or employee; and to review records required by the CAA and regulations promulgated thereunder, and other records which are directly related to the purpose of the inspection.

(b) Prior to inspecting areas containing information which is classified by an agency of the United States Government (and/or by any congressional committee or other authorized entity within the Legislative Branch) in the interest of national security, and for which security clearance is required as a condition for access to the area(s) to be inspected, the individual(s) conducting the inspection shall have obtained the appropriate security clearance.

§ 4.03 Requests for inspections by employees and covered employing offices.

(a) *By covered employees and representatives.*

(1) Any covered employee or representative of covered employees who believes that a violation of section 215 of the CAA exists in any place of employment under the jurisdiction of employing offices may request an inspection of such place of employment by giving notice of the alleged violation to the General Counsel. Any such notice shall be reduced to writing on a form available from the Office, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or the representative of the employees. A copy shall be provided to the employing office or its agent by the General Counsel or the General Counsel's designee no later than at the time of inspection, except that, upon the written request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the General Counsel.

(2) If upon receipt of such notification the General Counsel's designee determines that the notice meets the requirements set forth

in subparagraph (1) of this section, and that there are reasonable grounds to believe that the alleged violation exists, he or she shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists. Inspections under this section shall not be limited to matters referred to in the notice.

(3) Prior to or during any inspection of a place of employment, any covered employee or representative of employees may notify the General Counsel's designee, in writing, of any violation of section 215 of the CAA which he or she has reason to believe exists in such place of employment. Any such notice shall comply with the requirements of subparagraph (1) of this section.

(b) *By employing offices.* Upon written request of any employing office, the General Counsel or the General Counsel's designee shall inspect and investigate places of employment under the jurisdiction of employing offices under section 215(c)(1) of the CAA. Any such requests shall be reduced to writing on a form available from the Office.

§4.04 Objection to inspection.

Upon a refusal to permit the General Counsel's designee, in exercise of his or her official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employing office, operator, agent, or employee, in accordance with section 4.02 or to permit a representative of employees to accompany the General Counsel's designee during the physical inspection of any workplace in accordance with section 4.07, the General Counsel's designee shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The General Counsel's designee shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the General Counsel, who shall take appropriate action.

§4.05 Entry not a waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action or citation under section 215 of the CAA.

§4.06 Advance notice of inspections.

(a) Advance notice of inspections may not be given, except in the following situations: (1) in cases of apparent imminent danger, to enable the employing office to abate the danger as quickly as possible; (2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection; (3) where necessary to assure the presence of representatives of the employing office and employees or the appropriate personnel needed to aid in the inspection; and (4) in other circumstances where the General Counsel determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(b) In the situations described in paragraph (a) of this section, advance notice of inspections may be given only if authorized by the General Counsel, except that in cases of apparent imminent danger, advance notice may be given by the General Counsel's designee without such authorization if the General Counsel is not immediately available. When advance notice is given, it shall be the employing office's responsibility promptly to notify the authorized representative of employees, if the identity of such representative is known to the employing office. (*See* section 4.08(b) as to situations where there is no authorized representative of employees.) Upon the request of the employing office, the General Counsel will inform the authorized representative of employees of the inspection, provided that the employing office furnishes the General Counsel's designee with the identity of such representative and with such other information as is necessary to enable him promptly to inform such representative of the inspection. Advance notice in any of the situations described in paragraph (a) of this section shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

§4.07 Conduct of inspections.

(a) Subject to the provisions of section 4.02, inspections shall take place at such times and in such places of employment as the General Counsel may direct. At the beginning of an inspection, the General Counsel's designee shall present his or her credentials to the operator of the facility or the management employee in charge at the place of employment to be inspected; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in section 4.02 which he or she wishes to review. However, such designation of records shall not preclude access to additional records specified in section 4.02.

(b) The General Counsel's designee shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately, any employing office, operator, agent or employee of a covered facility. As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

(c) In taking photographs and samples, the General Counsel's designees shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. The General Counsel's designees shall comply with all employing office safety and health rules and practices at the workplace or location being inspected, and they shall wear and use appropriate protective clothing and equipment.

(d) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employing office.

(e) At the conclusion of an inspection, the General Counsel's designee shall confer with the employing office or its representative and informally advise it of any apparent safety or health violations disclosed by the inspection. During such conference, the employing office shall be afforded an opportunity to bring to the attention of the General Counsel's designee any pertinent information regarding conditions in the workplace.

(f) Inspections shall be conducted in accordance with the requirements of this subpart.

(g) *Trade Secrets.*

(1) At the commencement of an inspection, the employing office may identify areas in the establishment which contain or which might reveal a trade secret as referred to in section 15 of the OSHAct and section 1905 of title 18 of the United States Code. If the General Counsel's designee has no clear reason to question such identification, information contained in such areas, including all negatives and prints of photographs, and environmental samples, shall be labeled "confidential—trade secret" and shall not be disclosed by the General Counsel and/or his designees, except that such information may be disclosed to other officers or employees concerned with carrying out section 215 of the CAA or when relevant in any proceeding under section 215. In any such proceeding the hearing officer or the Board shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

(2) Upon the request of an employing office, any authorized representative of employees under section 4.08 in an area containing trade secrets shall be an employee in that area or an employee authorized by the employing office to enter that area. Where there is no such representative or employee, the General Counsel's designee shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

§4.08 Representatives of employing offices and employees.

(a) The General Counsel's designee shall be in charge of inspections and questioning of persons. A representative of the employing office and a representative authorized by its employees shall be given an opportunity to accompany the General Counsels designee during the physical inspection of any workplace for the purpose of aiding such inspection. The General Counsel's designee may permit additional employing office representatives and additional representatives authorized by employees to accompany the designee where he or she determines that such additional representatives will further aid the inspection. A different employing office and employee representative may accompany the General Counsel's designee during each different phase of an inspection if this will not interfere with the conduct of the inspection.

(b) The General Counsel's designee shall have authority to resolve all disputes as to who is the representative authorized by the employing office and employees for the purpose of this section. If there is no authorized representative of employees, or if the General Counsel's designee is unable to determine with reasonable certainty who is such representative, he or she shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(c) The representative(s) authorized by employees shall be an employee(s) of the employing office. However, if in the judgment of the General Counsel's designee, good cause has been shown why accompaniment by a third party who is not an employee of the employing office (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the General Counsel's designee during the inspection.

(d) The General Counsel's designee may deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection. With regard to information classified by an agency of the U.S. Government (and/or by any congressional committee or other authorized entity within the Legislative Branch) in the interest of national security, only persons authorized to have access to such information may accompany the General Counsel's

designee in areas containing such information.

§4.09 Consultation with employees.

The General Counsel's designee may consult with employees concerning matters of occupational safety and health to the extent he or she deems necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of section 215 of the CAA which he or she has reason to believe exists in the workplace to the attention of the General Counsel's designee.

§4.10 Inspection not warranted; informal review.

(a) If the General Counsel's designee determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a notice of violation under section 4.03(a), he or she shall notify the party giving the notice in writing of such determination. The complaining party may obtain review of such determination by submitting a written statement of position with the General Counsel and, at the same time, providing the employing office with a copy of such statement by certified mail. The employing office may submit an opposing written statement of position with the General Counsel and, at the same time, providing the complaining party with a copy of such statement by certified mail. Upon the request of the complaining party or the employing office, the General Counsel, at his or her discretion, may hold an informal conference in which the complaining party and the employing office may orally present their views. After considering all written and oral views presented, the General Counsel shall affirm, modify, or reverse the designee's determination and furnish the complaining party and the employing office with written notification of this decision and the reasons therefor. The decision of the General Counsel shall be final and not reviewable.

(b) If the General Counsel's designee determines that an inspection is not warranted because the requirements of section 4.03(a)(1) have not been met, he or she shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new notice of alleged violation meeting the requirements of section 4.03(a)(1).

§4.11 Citations.

(a) If, on the basis of the inspection, the General Counsel believes that a violation of any requirement of section 215 of the CAA, or of any standard, rule or order promulgated pursuant to section 215 of the CAA, has occurred, he or she shall issue a citation to the employing office responsible for correction of the violation, as determined under section 1.106 of the Board's regulations implementing section 215 of the CAA, either a citation or a notice of de minimis violations that have no direct or immediate relationship to safety or health. An appropriate citation or notice of de minimis violations shall be issued even though after being informed of an alleged violation by the General Counsel, the employing office immediately abates, or initiates steps to abate, such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection. No citation may be issued under this section after the expiration of 6 months following the occurrence of any alleged violation.

(b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the CAA, standard, rule, regulation, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

(c) If a citation or notice of de minimis violations is issued for a violation alleged in a request for inspection under section 4.03(a)(1), or a notification of violation under section 4.03(a)(3), a copy of the citation or notice of de minimis violations shall also be sent to the employee or representative of employees who made such request or notification.

(d) After an inspection, if the General Counsel determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under section 4.03(a)(1) or a notification of violation under section 4.03(a)(3), the informal review procedures prescribed in 4.15 shall be applicable. After considering all views presented, the General Counsel shall affirm the previous determination, order a reinspection, or issue a citation if he or she believes that the inspection disclosed a violation. The General Counsel shall furnish the party that submitted the notice and the employing office with written notification of the determination and the reasons therefor. The determination of the General Counsel shall be final and not reviewable.

(e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of section 215 has occurred.

(f) No citation may be issued to an employing office because of a rescue activity undertaken by an employee of that employing office with respect to an individual in imminent danger unless:

(1)(i) Such employee is designated or assigned by the employing office to have responsibility to perform or assist in rescue operations, and

(ii) The employing office fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(2)(i) Such employee is directed by the employing office to perform rescue activities in the course of carrying out the employee's job duties, and

(ii) The employing office fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(3)(i) Such employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water; and

(ii) Such employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elected to rescue such an individual; and

(iii) The employing office has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

(4) For the purpose of this policy, the term "imminent danger" means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

§4.12 Imminent danger.

(a) Whenever and as soon as a designee of the General Counsel concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for by section 215(c), he or she shall inform the affected employees and employing offices of the danger and that he or she is recommending the filing of a petition to restrain such conditions or practices and for other appropriate relief in accordance with section 13(a) of the OSHAct, as applied by section 215(b) of the CAA. Appropriate citations may be issued with respect to an imminent danger even though, after being informed of such danger by the General Counsel's designee, the employing office immediately eliminates the imminence of the danger and initiates steps to abate such danger.

§4.13 Posting of citations.

(a) Upon receipt of any citation under section 215 of the CAA, the employing office shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employing office's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employing offices are engaged in activities which are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employing office shall take steps to ensure that the citation is not altered, defaced, or covered by other material. Notices of de minimis violations need not be posted.

(b) Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The pendency of any proceedings regarding the citation shall not affect its posting responsibility under this section unless and until the Board issues a final order vacating the citation.

(c) An employing office to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the Board, and such notice may explain the reasons for such contest. The employing office may also indicate that specified steps have been taken to abate the violation.

§4.14 Failure to correct a violation for which a citation has been issued; notice of failure to correct violation; complaint.

(a) If the General Counsel determines that an employing office has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, he or she may issue a notification to the employing office of such failure prior to filing a complaint against the employing office under section 215(c)(3) of the CAA. Such notification shall fix a reasonable time or times for abatement of the alleged violation for which the citation was issued and shall be posted in accordance with section 4.13 of these rules. Nothing in these

rules shall require the General Counsel to issue such a notification as a prerequisite to filing a complaint under section 215(c)(3) of the CAA.

(b) If after issuing a citation or notification, the General Counsel believes that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification pursuant to section 215(c)(3) of the CAA. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures of sections 7.01 through 7.16 of these rules govern complaint proceedings under this section.

§4.15 Informal conferences.

At the request of an affected employing office, employee, or representative of employees, the General may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice issued by the General Counsel. Any settlement entered into by the parties at such conference shall be subject to the approval of the Executive Director under section 414 of the CAA and section 9.05 of these rules. If the conference is requested by the employing office, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the General Counsel. If the conference is requested by an employee or representative of employees, the employing office shall be afforded an opportunity to participate, at the discretion of General Counsel. Any party may be represented by counsel at such conference.

RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS

§4.20 Purpose and scope.

Sections 4.20 through 4.31 contain rules of practice for administrative proceedings to grant variances and other relief under sections 6(b)(6)(A) and 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, as applied by section 215(c)(4) of the CAA.

§4.21 Definitions.

As used in sections 4.20 through 4.31, unless the context clearly requires otherwise—

(a) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970, as applied to covered employees and employing and employing offices under section 215 of the CAA.

(b) *Party* means a person admitted to participate in a hearing conducted in accordance with this subpart. An applicant for relief and any affected employee shall be entitled to be named parties. The General Counsel shall be deemed a party without the necessity of being named.

(c) *Affected employee* means an employee who would be affected by the grant or denial of a variance, limitation, tolerance, or exemption, or any one of the employee's authorized representatives, such as the employee's collective bargaining agent.

§4.22 Effect of variances.

All variances granted pursuant to this part shall have only future effect. In its discretion, the Board may decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employing office involved and a proceeding on the citation or a related issue concerning a proposed period of abatement is pending before the General Counsel, a hearing officer, or the Board until the completion of such proceeding.

§4.23 Public notice of a granted variance, limitation, variation, tolerance, or exemption.

The Board will transmit every final action granting a variance, limitation, variation, tolerance, or exemption under this part of the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that such final action be published in the Congressional record. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

§4.24 Form of documents.

(a) Any applications for variances and other papers which are filed in proceedings under sections 4.20 through 4.31 of these rules shall be written or typed. All applications for variances and other papers filed in variance proceedings shall be signed by the applying employing office, by its attorney or other authorized representative, and shall contain the information required by sections 4.25 or 4.26 of these rules, as applicable.

§4.25 Applications for temporary variances and other relief.

(a) *Application for variance.* Any employing office, or class of employing offices, desiring a variance from a standard, or portion thereof, authorized by section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section with the Board. Pursuant to section 215(c)(4) of the CAA, the Board shall refer any matter appropriate for hearing to a hearing officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures set forth at sections 7.01 through 7.16 of these rules shall govern hearings under this subpart.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A specification of the standard or portion thereof from which the applicant seeks a variance;

(4) A representation by the applicant, supported by representations from qualified persons having first-hand knowledge of the facts represented, that the applicant is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the reasons thereof;

(5) A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) A statement of when the applicant expects to be able to comply with the standard and of what steps the applicant has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) A statement of the facts the applicant would show to establish that (i) the applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alternation of facilities cannot be completed by the effective date; (ii) the applicant is taking all available steps to safeguard its employees against the hazards covered by the standard; and (iii) the applicant has an effective program for coming into compliance with the standard as quickly as practicable;

(8) A statement that the applicant has informed its affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and

(9) A description of how affected employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order*—(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The hearing officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be transmitted by the Board to the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that the order be published in the Congressional Record. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.26 Applications for permanent variances and other relief.

(a) *Application for variance.* Any employing office, or class of employing offices, desiring a variance authorized by section 6(d) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section, with the Board. Pursuant to section 215(c)(4) of the CAA, the Board shall refer any matter appropriate for hearing to a hearing officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;

(4) A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard from which a variance is sought;

(5) A certification that the applicant has informed its employees of the application by (i) giving a copy thereof to their authorized representative; (ii) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (iii) by other appropriate means; and

(6) A description of how employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order*—(1) *Application*. An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The hearing officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application*. If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order*. If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties, and the terms of the order shall be transmitted by the Board to the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that the order be published in the Congressional Record. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.27 Modification or revocation of orders.

(a) *Modification or revocation*. An affected employing office or an affected employee may apply in writing to the Board for a modification or revocation of an order issued under section 6(b)(6)(A), or 6(d) of the OSHAct, as applied by section 215 of the CAA. The application shall contain:

(i) The name and address of the applicant;

(ii) A description of the relief which is sought;

(iii) A statement setting forth with particularly the grounds for relief;

(iv) If the applicant is an employing office, a certification that the applicant has informed its affected employees of the application by:

a. Giving a copy of thereof to their authorized representative;

b. Posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and

c. Other appropriate means.

(v) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employing office; and

(vi) Any request for a hearing, as provided in this part.

(b) *Renewal*. Any final order issued under section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may be renewed or extended as permitted by the applicable section and in the manner prescribed for its issuance.

§4.28 Action on applications.

(a) *Defective applications*. (1) If an application filed pursuant to sections 4.25(a), 4.26(a), or 4.27 does not conform to the applicable section, the hearing officer or the Board, as applicable, may deny the application.

(2) Prompt notice of the denial of an application shall be given to the applicant.

(3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

(4) a denial of an application pursuant to this paragraph shall be without prejudice to the filing of another application.

(b) *Adequate applications*. (1) If an application has not been denied pursuant to paragraph (a) of this section, the Office shall cause to be published a notice of the filing of the application, which the Board will transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that the order be published in the Congressional Record.

(2) A notice of the filing of an application shall include:

(i) The terms, or an accurate summary, of the application;

(ii) a reference to the section of the OSHAct applied by section 215 of the CAA under which the application has been filed;

(iii) an invitation to interested persons to submit within a stated period of time written data, views, or arguments regarding the application; and

(iv) information to affected employing offices, employees, and appropriate authority having jurisdiction over employment or places of employment covered in the application of any right to request a hearing on the application.

§4.29 Consolidation of proceedings.

On the motion of the hearing officer or the Board or that of any party, the hearing officers or the Board may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issues.

§4.30 Consent findings and rules or orders.

(a) *General*. At any time before the reception of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the hearing officer, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

(b) *Contents*. Any agreement containing consent findings and rule or order disposing of a proceeding shall also provide:

(1) That the rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the application and the agreement;

(3) A waiver of any further procedural steps before the hearing officer and the Board; and

(4) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(c) *Submission*. On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the hearing officer for his or her consideration; or

(2) Inform the hearing officer that agreement cannot be reached.

(d) *Disposition*. In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefore, the hearing officer may accept such agreement by issuing his or her decision based upon the agreed findings.

§4.31 Order of Proceedings and Burden of Proof.

(a) *Order of proceeding*. Except as may be ordered otherwise by the hearing officer, the party applicant for relief shall proceed first at a hearing.

(b) *Burden of proof*. The party applicant shall have the burden of proof.

§5.01(a)(2)

(a)(2) The General Counsel may file a complaint alleging a violation of section 210, 215 or 220 of the Act.

§5.01(b)(2)

(b)(2) A complaint may be filed by the General Counsel.

(i) after the investigation of a charge filed under section 210 or 220 of the Act, or

(ii) after the issuance of a citation or notification under section 215 of the Act.

§5.01(c)(2)

(c)(2) *Complaints filed by the General Counsel*. A complaint filed by the General Counsel shall be in writing, signed by the General Counsel or his designee and shall contain the following information:

(i) the name, address and telephone number of, as applicable, (A) each entity responsible for correction of an alleged violation of section 210(b), (B) each employing office alleged to have violated section 215, or (C) each employing office and/or labor organization alleged to have violated section 220, against which complaint is brought:

(ii) notice of the charge filed alleging a violation of section 210 or 220 and/or issuance of a citation or notification under section 215;

(iii) a description of the acts and conduct that are alleged to be violations of the Act, including all relevant dates and places and the names and titles of the responsible individuals; and

(iv) a statement of the relief or remedy sought.

§5.01(d)

(d) Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments, as appropriate, relate to the violations for which the employee has completed counseling and mediation, or relate to the charge(s) investigated and/or the citation or notification issued by the General Counsel; and that permitting such amendments will not unduly prejudice the rights of the employing office, the labor organization, or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

§5.04 Confidentiality

Pursuant to section 416(c) of the Act, except as provided in sub-sections 416(d), (e) and (f), all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of Hearing Officers and the Board under section 215. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are subject of a matter. *See also* sections 1.06, 1.07 and 7.12 of these rules.

§7.07(f)

(f) If the Hearing Officer concludes that a representative of an employee, a witness, a

charging party, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party shall be afforded reasonable time to retain other representation.

§ 7.12

Pursuant to section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it. This provision shall not apply to proceedings under section 215 of the Act, but shall apply to the deliberations of Hearing Officers and the Board under that section.

§ 8.03(a)

(a) Unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of an appeal pursuant to section 407 of the Act, and except as provided in sections 210(d)(5) and 215(c)(6), a party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all other parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision or order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

§ 8.04 Judicial Review

Pursuant to section 407 of the Act,

(a) the United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of:

(1) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II;

(2) a charging individual or respondent before the Board who files a petition under section 210(d)(4);

(3) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5); or

(4) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3) of the Act.

(b) The U.S. Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II of the Act.

(c) The party filing a petition for review shall serve a copy on the opposing party or parties or their representative(s).

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2957. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Onions Grown in South Texas; Amendment of Sunday Packing and Loading Prohibitions [Docket No. FV97-959-1 IFR] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2958. A communication from the President of the United States, transmitting his requests for emergency fiscal year 1997 supplemental appropriations for emergency expenses related to the devastating flooding in North Dakota, South Dakota, and Minnesota, and to designate the amounts made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 105-71); to the Committee on Appropriations and ordered to be printed.

2959. A letter from the Comptroller General of the United States, the General Accounting Office, transmitting a review of the President's second and third special impoundment message for fiscal year 1997, pursuant to 2 U.S.C. 685 (H. Doc. No. 105-76); to the Committee on Appropriations and ordered to be printed.

2960. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of April 1, 1997, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 105-75); to the Committee on Appropriations and ordered to be printed.

2961. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled "Eligibility for the Defense Experimental Program to Stimulate Competitive Research"; to the Committee on National Security.

2962. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled "Nuclear Attack Submarines"; to the Committee on National Security.

2963. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the 1996 annual report to Congress by the Division of Compliance and Consumer Affairs of the FDIC, pursuant to 15 U.S.C. 57a(f)(6); to the Committee on Banking and Financial Services.

2964. A letter from the Acting Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Training and Employment (Employment and Training Administration) [Guidance Letter Nos. 6-96 and 7-96] received April 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2965. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Placer County Air Pollution Control District [CA 126-0032a; FRL-5815-5] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2966. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans: State of Washington [WA60-7135a; WA61-7136a; and WA63-7138a; FRL-5812-7] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2967. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Jersey; Consumer and Commercial Products Rule [Region II Docket No. NJ26-2-165, FRL-5813-9] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2968. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Australia for defense articles and services (Transmittal No. 97-10), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2969. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report entitled "Country Reports on Human Rights Practices for 1996," pursuant to 22 U.S.C. 2151n(d); to the Committee on International Relations.

2970. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the Authority's report entitled "Toward a More Equitable Relationship: Structuring the District of Columbia's State Functions"; to the Committee on Government Reform and Oversight.

2971. A letter from the Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a report on the necessity to construct modifications to Lost Creek Dam, Weber Basin Project, UT, for safety reasons, pursuant to 43 U.S.C. 509; to the Committee on Resources.

2972. A letter from the Acting 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; Ocean Salmon Fisheries Off the Coast of Washington, Oregon, and California; Inseason Adjustments, Cape Falcon, OR, to the Oregon-California Border [Docket No. 960429120-6120-01; I.D. 040897A] received April 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2973. A letter from the Acting Director, Office of Surface Mining and Reclamation Enforcement, transmitting the Office's final rule—North Dakota Regulatory Program [SPATS No. ND-034, Amendment No. XXIII] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2974. A letter from the Acting Director, Office of Surface Mining and Reclamation Enforcement, transmitting the Office's final rule—Arkansas Regulatory Program and Abandoned Mine Land Reclamation Plan [SPATS No. AR-027-FOR] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2975. A letter from the Acting Director, Office of Surface Mining and Reclamation Enforcement, transmitting the Office's final rule—Texas Regulatory Program [SPATS No. TX-030-FOR] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2976. A letter from the Director, Office of Global Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—NOAA Climate and Global Change Program, Program Announcement [Docket No. 970324067-7067-01]

(RIN: 0648–ZA29) received April 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

2977. A letter from the Fiscal Assistant Secretary, the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting the 1977 annual report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, pursuant to 42 U.S.C. 401(c)(2), 1395i(b)(2), and 1395t(b)(2) (H. Doc. No. 105–73); to the Committee on Ways and Means and ordered to be printed.

2978. A letter from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, Transmitting the 1997 annual report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, pursuant to 42 U.S.C. 401(c)(2), 1395i(b)(2), and 1385t(b)(2) (H. Doc. No. 105–72); to the Committee on Ways and Means and ordered to be printed.

2979. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Medical Savings Accounts [Rev. Rul. 97–20] received April 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2980. A letter from the Executive Director, Office of Compliance, transmitting notice of adoption of amendments to the Procedural Rules of the Office for printing in the CONGRESSIONAL RECORD, pursuant to Public Law 104–1, section 303(b) (109 Stat. 28); jointly, to the Committees on House Oversight and Education and the Workforce.

2981. A letter from the Board of Trustees, Federal Supplementary Medical Insurance Trust Fund, transmitting the 1997 annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund, pursuant to 42 U.S.C. 401(c)(2), 1395i(b)(2) (H. Doc. No. 105–74); jointly, to the Committees on Ways and Means and Commerce, and ordered to be printed.

2982. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation entitled the "Public Housing Management Reform Act of 1997"; jointly, to the Committees on Banking and Financial Services, Ways and Means, Education and the Workforce, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 408. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; with an amendment (Rept. 105–74 Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 478. A bill 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 amendments (Rept. 105–75). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 408. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; with an amendment; referred to the Committee on Ways and Means for a period ending not later than May 5, 1997, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(s), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and caluse 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HORN (for himself, Mr. DREIER, Mr. FOLEY, Mr. BILBRAY, Mr. CALVERT, Mr. CUNNINGHAM, Mr. ENGLISH of Pennsylvania, Mr. GALLEGLY, Mr. LEWIS of California, Mr. MCKEON, Mr. PACKARD, Mr. RIGGS, Mr. ROYCE, Mr. STEARNS, Mr. STUMP, Mr. TRAFICANT, and Mr. HUNTER):

H.R. 1428. A bill to amend the Immigration and Nationality Act to establish a system through which the Commissioner of Social Security and the Attorney General respond to inquiries made by election officials concerning the citizenship of voting registration applicants and to amend the Social Security Act to permit States to require individuals registering to vote in elections to provide the individual's Social Security number; to the Committee on the Judiciary; and in addition to the Committees on House Oversight, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. KIM, and Mr. TRAFICANT) (all by request):

H.R. 1429. A bill to reauthorize and amend the Appalachian Regional Development Act of 1965; to the Committee on Transportation and Infrastructure.

H.R. 1430. A bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Banking and Financial Services, 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. GILMAN (for himself, Mr. ARMEY, Mr. SOLOMON, Mr. GOSS, Mr. WELDON of Pennsylvania, and Mr. COX of California):

H.R. 1431. A bill to ensure that the enlargement of the North Atlantic Treaty Organization [NATO] proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes; to the Committee on International Relations.

By Mr. CRANE (for himself, Mr. RANGEL, Mr. MCDERMOTT, Mr. HOUGHTON, Mr. JEFFERSON, Mr. MANZULLO, Mr. EHLERS, Mr. KOLBE, Mr. DREIER, Ms. CHRISTIAN-GREEN, Mr. TOWNS, Mr. MCNULTY, Mrs. MEEK of Florida, Ms. CARSON, Mr. PAYNE, Ms. FURSE, Ms. MCKINNEY, Ms. JACKSON-LEE, Mr. FALEOMAVAEGA, Ms. NORTON, Mr. RUSH, Mr. HASTINGS of Florida, Mr. HALL of Ohio, Mr. DELLUMS, Mr. FORD, Mr. FOGLIETTA, Mr. FATTAH, Mr. BISHOP, Mr. HILLIARD, Mrs. CLAYTON, Mr. OWENS, Mr. SCOTT, Mr. HINCHEY, Mr. BISHOP, Mr. HILLIARD, Mr. OWENS, Mr. SCOTT, Mr. HINCHEY, and Mr. BEREUTER):

H.R. 1432. A bill to authorize a new trade and investment policy for sub-Saharan African; to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO of New York (for himself and Mr. KENNEDY of Massachusetts) (both by request):

H.R. 1433. A bill to protect the financial interests of the Federal Government through debt restructuring and subsidy reduction in connection with multifamily housing; to enhance the effectiveness of enforcement provisions relating to single family and multifamily housing, including amendments to the bankruptcy code; to consolidate and reform the management of multifamily housing programs; and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committees on Ways and Means, and the Judiciary, 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. HERGER:

H.R. 1434. A bill to amend the Internal Revenue Code of 1986 to authorize the Secretary of the Treasury to postpone certain tax-related deadlines in the case of taxpayers affected by a Presidentially declared disaster, and for other purposes; to the Committee on Ways and Means.

By Mr. CLAY (for himself, Mr. MILLER of California, Mr. MARTINEZ, Mr. OWENS, Mr. PAYNE, Mr. ANDREWS, Mr. SCOTT, Mr. ROMERO-BARCELÓ, Mr. FATTAH, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. TIERNEY, Ms. SANCHEZ, Mr. FORD, Mr. KUCINICH, Mr. LEWIS of Georgia, Ms. WATERS, Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RANGEL, Mr. STOKES, Mr. BISHOP, Ms. BROWN of Florida, Ms. CARSON, Mrs. CLAYTON, Mr. CLYBURN, Mr. CUMMINGS, Mr. DIXON, Mr. FLAKE, Ms. MCKINNEY, Mrs. MEEK of Florida, Ms. NORTON, Mr. RUSH, Mr. TOWNS, Mr. WYNN, Mr. SERRANO, Mr. DAVIS of Illinois, and Ms. CHRISTIAN-GREEN):

H.R. 1435. A bill to amend the Higher Education Act of 1965 to improve the access to and affordability of higher education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. CLAY (for himself, Mr. KILDEE, Mr. MARTINEZ, Mr. OWENS, Mr. PAYNE, Mr. ANDREWS, Mr. SCOTT, Mr. ROMERO-BARCELÓ, Mr. FATTAH, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Ms. SANCHEZ, Mr. FORD, Mr. KUCINICH, Mr. BONIOR, Mr. LEWIS of Georgia, Ms. WATERS, Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RANGEL, Mr. STOKES, Mr. BISHOP, Ms. BROWN of Florida, Ms. CARSON, Mrs. CLAYTON, Mr. CUMMINGS, Mr. DIXON, Ms. MCKINNEY, Mrs. MEEK of Florida, Ms. NORTON, Mr. RUSH, Mr. TOWNS, Mr. SERRANO, Mr. WYNN, Mr. DAVIS of Illinois, and Ms. CHRISTIAN-GREEN):

H.R. 1436. A bill to assist local communities in the renewal of their public schools; to the Committee on Education and the Workforce.

By Mr. CASTLE (for himself, Mrs. JOHNSON of Connecticut, Mr. CARDIN, Mr. BACHUS, Mr. DEFAZIO, Mr. BOEHLERT, Mr. MCGOVERN, Mr. NEAL of Massachusetts, Mr. SERRANO, Mr. BEREUTER, Mr. LAHOOD, Mr. LEWIS of Georgia, and Mr. OLVER):

H.R. 1437. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DEGETTE (for herself, Mr. RIGGS, Mr. HANSEN, Mr. WAXMAN, Mr. MEEHAN, Ms. FURSE, Mr. OBERSTAR, Mr. COOK, Mr. MCDERMOTT, Ms. NORTON, Mr. OLVER, Mrs. TAUSCHER, Mr. LEWIS of Georgia, Mr. CASTLE, Ms. CHRISTIAN-GREEN, Mr. MCHALE, Mr. TIERNEY, Mr. UNDERWOOD, Mr. MILLER of California, Mr. DEFAZIO, and Mrs. LINDA SMITH of Washington):

H.R. 1438. A bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured crop disaster assistance for tobacco; to the Committee on Agriculture.

By Mr. DOOLITTLE:

H.R. 1439. A bill to facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, CA; to the Committee on Resources.

By Mr. ENGEL (for himself and Mrs. MCCARTHY of New York):

H.R. 1440. A bill to require the Department of Education to provide links to databases of information concerning scholarships and fellowships; to the Committee on Education and the Workforce.

By Mr. ENGLISH of Pennsylvania:

H.R. 1441. A bill to amend the Internal Revenue Code of 1986 with respect to discharge of indebtedness income from prepayment of loans under section 306B of the Rural Electrification Act of 1936; to the Committee on Ways and Means.

By Mr. GONZALEZ (for himself and Mrs. MALONEY of New York):

H.R. 1442. A bill to amend the Federal Reserve Act to expand the opportunity for private enterprise to compete with the Board of Governors of the Federal Reserve System in the provision of check-clearing and other services, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. HOUGHTON (for himself, Mr. KLECZKA, Mr. BUNNING of Kentucky, Mr. HERGER, Mr. CRANE, Mr. ENGLISH of Pennsylvania, Mr. CHRISTENSEN, Mr. MCCRERY, Mr. MCNULTY, Mrs. KENNELLY of Connecticut, Mr. NEAL of Massachusetts, Ms. DUNN of Washington, Mr. WELLER, Mr. MATSUI, and Mr. SHAW):

H.R. 1443. A bill to amend the Revenue Act of 1987 to provide a permanent extension of the transition rule for certain publicly traded partnerships; to the Committee on Ways and Means.

By Mr. KENNEDY of Massachusetts (for himself, Mr. OLVER, Mr. SERRANO, Mr. TOWNS, Mr. UNDERWOOD, Mr. THOMPSON, Ms. BROWN of Florida, Mr. FOX of Pennsylvania, Mr. FROST, Mr. FALEOMAVAEGA, Mr. MCGOVERN, Mr. DELLUMS, and Mr. BISHOP):

H.R. 1444. A bill to establish a grant program to install safety devices and improve safety at convenience stores; to the Committee on the Judiciary.

By Mr. KING of New York (for himself and Mrs. MCCARTHY of New York):

H.R. 1445. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for continued eligibility for supplemental security income and food stamps with regard to certain classifications of aliens; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLUG (for himself, Mr. SENSENBRENNER, Mr. BARRETT of Wisconsin, Mr. KLECZKA, Mr. OBEY, and Mr. KIND of Wisconsin):

H.R. 1446. A bill to require the Secretary of the Navy to terminate the operation of the Extremely Low Frequency Communications System of the Navy; to the Committee on National Security.

By Mr. LAZIO of New York (for himself and Mr. KENNEDY of Massachusetts) (both by request):

H.R. 1447. A bill to reform 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; to the Committee on Banking and Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Georgia:

H.R. 1448. A bill to improve the control of outdoor advertising in areas adjacent to the Interstate System, the National Highway System, and certain other federally assisted highways, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. LEWIS of Georgia (for himself, Mr. FARR of California, Mr. STARK, Mrs. MINK of Hawaii, Mr. DELLUMS, Mr. LIPINSKI, and Ms. CHRISTIAN-GREEN):

H.R. 1449. A bill to amend the Internal Revenue Code of 1986 to impose an annual tax on outdoor advertising to provide funding for surface transportation programs, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MILLER of California (for himself, Mr. LIPINSKI, Mr. KLECZKA, Mr. BERMAN, Mr. STARK, Mr. PALLONE, Mr. ABERCROMBIE, Mr. DINGELL, Mr. MCGOVERN, Mr. KUCINICH, Mr. CLAY, Mr. HINCHEY, Mr. OLVER, Mr. EVANS, Mrs. MINK of Hawaii, Ms. MCKINNEY, Ms. PELOSI, Mrs. CLAYTON, Mr. DELLUMS, Ms. CHRISTIAN-GREEN, Mr. GEJDENSON, Mr. KIND of Wisconsin, Mr. SANDERS, Mr. FRANK of Massachusetts, Mr. HEFNER, Mr. LANTOS, Mr. SPRATT, and Mr. BROWN of Ohio):

H.R. 1450. A bill to provide certain requirements for labeling textile fiber products and to implement minimum wage and immigration requirements in the Commonwealth of the Northern Mariana Islands; to the Committee on Resources.

By Mr. MORAN of Virginia (for himself, Mr. PAYNE, Mr. SERRANO, Mr. WOLF, Mrs. MORELLA, Mr. SCOTT, Mr. COYNE, Mr. UNDERWOOD, Mr. MILLER of California, Mr. DELLUMS, Mr. MCDERMOTT, Mr. BENTSEN, Mr. FAZIO of California, Ms. JACKSON-LEE, Mr. HALL of Ohio, Ms. NORTON, Ms. MCKINNEY, Mr. BORSKI, Ms. RIVERS, Mr. THOMPSON, Ms. LOFGREN, Mr. STRICKLAND, Mr. ACKERMAN, Mr. BOUCHER, Mrs. MALONEY of New York, Mr. GREEN, and Mrs. THURMAN):

H.R. 1451. A bill to amend the Public Health Service Act with respect to research regarding the health of children; to the Committee on Commerce.

By Mrs. MORELLA (for herself, Mr. KENNEDY of Massachusetts, Ms. NORTON, Mr. MARTINEZ, Mr. OWENS, Mr. FOX of Pennsylvania, and Mr. MORAN of Virginia):

H.R. 1452. A bill to amend part E of title IV of the Social Security Act to provide for demonstration projects to test the feasibility of establishing kinship care as an alternative to foster care for a child who has adult relatives willing to provide safe and appropriate care for the child, and to require notice to adult relative caregivers; to the Committee on Ways and Means.

By Mr. PALLONE (for himself, Mr. SHAYS, Mr. DEFAZIO, Mr. GILCHREST, and Mrs. MORELLA):

H.R. 1453. A bill to amend the Federal Water Pollution Control Act to improve the enforcement and compliance programs; to the Committee on Transportation and Infrastructure.

By Mr. RIGGS:

H.R. 1454. A bill to prohibit the Administrator of the Federal Aviation Administration from closing certain flight service stations; to the Committee on Transportation and Infrastructure.

By Mr. RUSH (for himself, Mr. FROST, Ms. CHRISTIAN-GREEN, Mrs. MINK of Hawaii, Ms. DEGETTE, Ms. LOFGREN, Mr. GONZALEZ, Mr. SAWYER, Mr. ACKERMAN, Ms. WATERS, Mr. TOWNS, Mr. RANGEL, Mr. HILLIARD, and Ms. KILPATRICK):

H.R. 1455. A bill to preserve the eligibility for Federal loans and guarantees of disabled children whose supplemental security income benefits are terminated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; to the Committee on Government Reform and Oversight.

By Mr. THORNBERRY:

H.R. 1456. A bill to amend title 10, United States Code, to improve the access to military treatment facilities for retired members of the uniformed services, and their dependents, who are over 65 years of age, to provide for Medicare reimbursement for health care services provided to such persons, and, as an alternative health care approach, to permit such persons to enroll in the Federal Employees Health Benefits program; to the Committee on Ways and Means, and in addition to the Committees on Commerce, National Security, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. THURMAN (for herself, Mr. STARK, Mr. SHAW, and Mr. DAVIS of Florida):

H.R. 1457. A bill to amend title XVIII of the Social Security Act to improve efforts to combat fraud and abuse under the Medicare Program for suppliers of durable medical equipment, home health agencies, and other providers through disclosure of information on ownership interests and requirement for a surety bond; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIAHRT (for himself and Mr. WATTS of Oklahoma):

H.R. 1458. A bill to amend the Federal Election Campaign Act of 1971 to prohibit labor organizations from using funds withheld from wages for activities related to a campaign for election for Federal office; to the Committee on House Oversight.

By Mr. TIAHRT (for himself and Mr. BURTON of Indiana) (both by request):

H.R. 1459. A bill to amend part E of title IV of the Social Security Act to prevent children from languishing in foster care; to the Committee on Ways and Means.

By Mr. UNDERWOOD:

H.R. 1460. A bill to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes; to the Committee on Resources.

By Mr. VENTO (for himself, Mr. PETERSON of Minnesota, Mr. OBERSTAR, Mr. SABO, Mr. POMEROY, and Mr. MINGE):

H.R. 1461. A bill to facilitate recovery from the recent flooding of the Red River and its tributaries by providing greater flexibility for depository institutions and their regulators, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. VISCLOSKY:

H.R. 1462. A bill to authorize the Administrator of the Environmental Protection Agency to establish a pilot project providing loans to States to establish revolving loans for the environmental cleanup of brownfield sites in distressed areas that have the potential to attract private investment and create local employment; to the Committee on Commerce.

By Mr. RANGEL:

H.J. Res. 73. Joint resolution proposing an amendment to the Constitution of the United States respecting the right to a home; to the Committee on the Judiciary.

By Mr. KIM:

H. Con. Res. 66. Concurrent resolution authorizing the use of the Capitol Grounds for the 16th annual National Peace Officers' Memorial Service; to the Committee on Transportation and Infrastructure.

H. Con. Res. 67. Concurrent resolution authorizing the 1997 Special Olympics Torch Relay to be run through the Capitol Grounds; to the Committee on Transportation and Infrastructure.

By Mr. THOMAS:

H. Res. 129. Resolution providing amounts for the expenses of certain committees of the House of Representatives in the 105th Congress; to the Committee on House Oversight.

By Mr. GUTKNECHT:

H. Res. 130. Resolution providing for a lump sum allowance for the Corrections Calendar Office; considered and agreed to.

By Mr. KENNEDY of Massachusetts (for himself, Mr. GEPHARDT, Mr. FRANK of Massachusetts, Mr. TIERNEY, Mr. MARKEY, Ms. DEGETTE, Mr. ABERCROMBIE, Mr. CLEMENT, Ms. DELAURO, Mr. HALL of Ohio, Ms. JACKSON-LEE, Mr. DELLUMS, Mr. BARRETT of Wisconsin, Ms. NORTON, Mr. SAWYER, Mr. CONYERS, Mr. LAFALCE, Mr. OLVER, Mr. NEAL of Massachusetts, Mr. MEEHAN, Mr. LEWIS of Georgia, Mr. DELAHUNT, Mr. WEYGAND, Mrs. MALONEY of New York, Mr. ACKERMAN, Mr. SCHUMER, Mr. NADLER, Mr. MCGOVERN, Ms. RIVERS, Mr. COYNE, Ms. PELOSI, Mr. PALLONE, Ms. LOFGREN, Mr. GONZALEZ, Mr. FORD, Mr. PAYNE, Ms. STABENOW, Mrs. TAUSCHER, Mr. POSHARD, Mr. DAVIS of Illinois, Mr. BORSKI, Mr. CLAY, Mr. OBERSTAR, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mrs. CLAYTON, Mr. HILLIARD, Mr. ALLEN, Mr. HINCHEY, Mr. MORAN of Virginia, Mr. SERRANO, Mr. FLAKE, Mr. BENTSEN, and Mr. BONIOR):

H. Res. 131. Resolution expressing the sense of the House of Representatives that the Federal commitment to early childhood development programs should be supported by sufficient funding to meet the needs of infants and toddlers in the areas of health, nutrition, education, and child care; to the Committee on Education and the Workforce.

By Mr. SANDERS (for himself, Ms. WATERS, Mr. GEJDENSON, Mr. PALLONE, Mr. DELLUMS, Mr. FILNER, and Ms. CHRISTIAN-GREEN):

H. Res. 132. Resolution expressing the sense of the House of Representatives against reductions in Social Security benefits and arbitrary reductions in the Consumer Price Index; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

53. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution 63 memorializing Congress to address the pragmatic and budgetary shortfalls that have plagued the Nuclear Waste Program; to the Committee on Commerce.

54. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution 88 memorializing the Clinton administration and Congress to support legislation authorizing States to restrict the amount of solid waste they import from other States; to the Committee on Commerce.

55. Also, memorial of the Legislature of the State of Montana, relative to House Joint Resolution 7 which supports full membership in the United Nations for the Republic of China on Taiwan; to the Committee on International Relations.

56. Also, memorial of the Senate of the State of Georgia, relative to Senate Resolution 180 urging the U.S. Congress to adopt the balanced budget amendment; to the Committee on the Judiciary.

57. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to Senate Joint Resolution 307 memorializing Congress to take appropriate steps to reimburse the States for the costs of services provided illegal aliens; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. HILL, Ms. PRYCE of Ohio, Mr. SENSENBRENNER, and Mr. OXLEY.

H.R. 15: Mr. FAWELL, Mr. KING of New York, Mr. TOWNS, and Mr. SPENCE.

H.R. 38: Mr. STUPAK and Mr. PALLONE.

H.R. 64: Mr. THOMAS.

H.R. 66: Mr. RUSH, Mr. MCINTOSH, and Mr. CRAMER.

H.R. 107: Mr. YOUNG of Florida, Mr. STUPAK, Mr. CRAMER, and Mr. MICA.

H.R. 122: Mr. DOOLITTLE, Mr. BOEHNER, Mr. ARMEY, Mr. COBURN, Mr. ROYCE, Mr. BARTLETT of Maryland, and Mr. NEY.

H.R. 135: Mr. BORSKI, Mr. LAMPSON, and Mr. MOLLOHAN.

H.R. 145: Ms. ROS-LEHTINEN, Mr. SANDLIN, Mr. TIERNEY, Mr. JOHNSON of Wisconsin, Ms. RIVERS, and Mr. LATOURETTE.

H.R. 150: Mr. RUSH, Ms. DELAURO, and Mr. MILLER of California.

H.R. 155: Mr. LAMPSON.

H.R. 158: Mr. TALENT, Mr. FROST, Mr. NEY, and Mr. BLILEY.

H.R. 159: Mr. BLILEY.

H.R. 176: Mr. FROST, Mr. MANTON, and Mr. HANSEN.

H.R. 192: Mr. NETHERCUTT, Mr. EVERETT, Mr. MASCARA, Mr. WELLER, Mr. NEY, and Mr. KING of New York.

H.R. 209: Mrs. MCCARTHY of New York and Mr. NEY.

H.R. 219: Mr. ENSIGN, Mr. MATSUI, Mr. FRANKS of New Jersey, Mr. JONES, Mr. DOOLEY of California, Mr. WEXLER, Mr. FRELINGHUYSEN, Mr. RADANOVICH, Mr. JOHN, Mr. FROST, Mr. GEJDENSON, Mr. WATKINS, Mr. DELAHUNT, Mr. BUNNING of Kentucky, Ms. ESHOO, Ms. NORTON, Mr. COMBEST, Mr. FILNER, Mr. YOUNG of Alaska, and Mr. KNOLLENBERG.

H.R. 248: Mr. TIAHRT.

H.R. 279: Mr. GOODLING and Mr. OLVER.

H.R. 299: Mr. MATSUI and Mr. COYNE.

H.R. 303: Mr. YOUNG of Florida and Mr. RILEY.

H.R. 339: Mr. ADAM SMITH of Washington and Mr. SOUDER.

H.R. 347: Mr. COBLE.

H.R. 371: Mr. LUCAS of Oklahoma and Mr. WATT of North Carolina.

H.R. 383: Mr. CAPPS and Mr. WICKER.

H.R. 406: Mr. ROTHMAN.

H.R. 414: Mr. NETHERCUTT, Mr. DIAZ-BALART, Mr. EVERETT, Mr. MASCARA, Mr. WELLER, and Mr. NEY.

H.R. 450: Mr. HAYWORTH, Mr. CHRISTENSEN, Mr. MALONEY of Connecticut, and Mr. NEAL of Massachusetts.

H.R. 465: Mr. BOEHLERT, Mr. NEAL of Massachusetts, Mr. BURR of North Carolina, and Mr. BORSKI.

H.R. 475: Mr. MILLER of Florida.

H.R. 479: Mr. BLUNT, Mr. NETHERCUTT, Mr. MILLER of Florida, Mr. FROST, Mr. DEFAZIO, Mr. RIGGS, Mr. LAMPSON, Mr. LEWIS of Georgia, and Mr. WEXLER.

H.R. 482: Mr. WYNN.

H.R. 493: Mr. FOGLIETTA and Mr. GRAHAM.

H.R. 519: Mr. SHAW, Ms. STABENOW, and Mr. BEREUTER.

H.R. 530: Mr. CASTLE, Mr. BACHUS, Mr. CRANE, and Mr. HULSHOF.

H.R. 546: Mr. SCHUMER.

H.R. 566: Mr. RUSH, Mr. DELLUMS, and Mr. MCGOVERN.

H.R. 586: Mr. COSTELLO, Mr. DAVIS of Florida, Mr. RANGEL, Mr. REYES, Mr. YOUNG of Alaska, and Ms. HARMAN.

H.R. 587: Mr. LEWIS of Georgia.

H.R. 598: Mr. BROWN of California.

H.R. 611: Ms. HOOLEY of Oregon, Mr. KIND of Wisconsin, Mr. FLAKE, Mr. BOUCHER, Mrs. JOHNSON of Connecticut, Mr. UPTON, Mr. KUCINICH, Mr. FOGLIETTA, and Mr. WEXLER.

H.R. 617: Mr. TOWNS, Mr. FRANK of Massachusetts, Mr. MCDERMOTT, Mr. LAMPSON, and Mr. RANGEL.

H.R. 628: Mr. STUMP.

H.R. 630: Ms. MILLENDER-MCDONALD.

H.R. 659: Mr. LATHAM and Mr. HOSTETTLER.

H.R. 674: Mr. DAVIS of Florida, Mrs. CLAYTON, Mr. HUTCHINSON, Mr. DREIER, and Mr. SCARBOROUGH.

H.R. 695: Mr. GORDON, Mr. HUTCHINSON, Ms. RIVERS, Mr. SNOWBARGER, and Mrs. TAUSCHER.

H.R. 722: Mr. CHRISTENSEN, Mr. FRELINGHUYSEN, Mr. SHAYS, Ms. PRYCE of Ohio, Mr. MICA, and Mr. NORWOOD.

H.R. 723: Mr. GANSKE and Mrs. NORTHUP.

H.R. 753: Mr. CLYBURN, Mr. BLAGOJEVICH, Mrs. MEEK of Florida, Ms. WOOLSEY, Mr. KUCINICH, Mr. COYNE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SHAYS and Mrs. TAUSCHER.

H.R. 756: Mr. JONES and Mr. HASTINGS of Florida.

H.R. 775: Ms. KILPATRICK.

H.R. 778: Mr. WAXMAN.

H.R. 779: Mr. WAXMAN.

H.R. 780: Mr. WAXMAN.

H.R. 786: Mr. RILEY.

H.R. 816: Mr. RILEY.

H.R. 850: Mr. FOGLIETTA, Mr. TOWNS, Mr. SERRANO, Mr. FROST, Mr. MILLER of California, Mr. FILNER, Ms. CHRISTIAN-GREEN, Mr. MANTON, Mr. BOEHLERT, Mr. QUINN, Mr. ACKERMAN, Mr. FLAKE, and Ms. WATERS.

H.R. 866: Mr. KNOLLENBERG and Mr. STEARNS.

H.R. 867: Mr. BUNNING of Kentucky, Mr. ENSIGN, Mr. HERGER, Mr. WELLER, Mr. DELAY, and Mr. MCHALE.

H.R. 871: Mr. BISHOP.

H.R. 876: Mr. JEFFERSON, Mr. PAPPAS, Mr. DAVIS of Virginia, and Mr. SNOWBARGER.

H.R. 901: Mr. BARTON of Texas, Mr. DREIER, and Mr. GANSKE.

H.R. 902: Mrs. NORTHUP and Mr. ADERHOLT.

H.R. 907: Mr. LEWIS of Georgia.

H.R. 910: Mr. DELLUMS and Ms. KAPTUR.

H.R. 911: Mr. KLECZKA, Mr. GEKAS, Mr. RILEY, Mr. LANTOS, and Mr. SOLOMON.

H.R. 915: Mr. SPRATT, Mr. BORSKI, Ms. WATERS, Mr. GRAHAM, and Mrs. TAUSCHER.

H.R. 946: Mr. HUTCHINSON and Mr. LUCAS of Oklahoma.

H.R. 956: Mr. GINGRICH.

H.R. 964: Mr. GOODE, Mr. PETERSON of Minnesota, Mr. EWING, Mr. CUNNINGHAM, Mr. CLEMENT, and Ms. DANNER.

H.R. 965: Mr. HALL of Texas, Mr. POMBO, Ms. DUNN of Washington, and Mr. CUNNINGHAM.

H.R. 983: Ms. WOOLSEY.

H.R. 991: Mrs. TAUSCHER.

H.R. 1004: Mr. BLILEY, Mr. WATTS of Oklahoma, Mr. GREENWOOD, Mr. TALENT, Mr. SENSENBRENNER, Mr. TAYLOR of North Carolina, Mr. CHABOT, Mr. LATHAM, Mr. HUTCHINSON, Mrs. MYRICK, Mr. HILL, Mr. MCKEON, Mr. HANSEN, and Mr. INGLIS of South Carolina.

H.R. 1009: Mr. COOKSEY and Mr. CRAPO.

H.R. 1015: Mr. YATES and Ms. KILPATRICK.

H.R. 1016: Mr. LARGENT and Mr. BERRY.

H.R. 1035: Mr. MCDADE and Mr. HOLDEN.

H.R. 1037: Mr. MATSUI, Mr. FROST, Mr. KOLBE, and Mr. HEFNER.

H.R. 1046: Mr. CONYERS.

H.R. 1054: Ms. RIVERS, Mr. RIGGS, and Mr. POMBO.

H.R. 1060: Mr. RADANOVICH, Mr. EDWARDS, Mr. RAMSTAD, and Mr. DEUTSCH.

H.R. 1062: Mr. TAUZIN.

H.R. 1068: Mr. COBURN, Mr. PAUL, Mr. PICKETT, and Mr. RIGGS.

H.R. 1070: Ms. CHRISTIAN-GREEN, Mr. OBERSTAR, Mrs. MALONEY of New York, Mr. SANDERS, Mr. YATES, Mr. RANGEL, Mr. FROST, and Mr. GREEN.

H.R. 1071: Mr. THOMPSON.

H.R. 1104: Ms. SLAUGHTER, Mr. BROWN of California, Mr. HILLIARD, Mr. MCINTYRE, Mr. PAYNE, Mr. BLAGOJEVICH, Mr. CUMMINGS, Ms. KILPATRICK, Mr. FALEOMAVAEGA, Ms. DEGETTE, Mr. DEUTSCH, Mr. DELAHUNT, Mrs. KENNELLY of Connecticut, Mr. ENGEL, Mr. RAHALL, Mrs. CLAYTON, Ms. RIVERS, Mr. MALONEY of Connecticut, Mr. MOAKLEY, Mr. SANDERS, Mr. FLAKE, Mr. THOMPSON, Mr. LAMPSON, and Mr. DELLUMS.

H.R. 1117: Mr. LEWIS of Georgia, Mr. BROWN of California, Mr. ABERCROMBIE, and Mr. POSHARD.

H.R. 1120: Ms. PELOSI, Mr. FORD, Mr. MCDERMOTT, Mr. STRICKLAND, and Mr. DELLUMS.

H.R. 1132: Mr. BROWN of Ohio, Mr. MOAKLEY, Mr. MORAN of Virginia, Mr. KLUG, Mr. MCGOVERN, Mr. ENGEL, Mr. SANDERS, Mrs. MALONEY of New York, Mrs. MORELLA, and Ms. LOFGREN.

H.R. 1147: Mr. DICKEY.

H.R. 1164: Mr. ENGLISH of Pennsylvania, Mr. GILLMOR, Mr. WICKER, Mr. DEAL of Georgia, Mr. HEFNER, Mr. PAUL, Mr. CLYBURN, and Mrs. EMERSON.

H.R. 1172: Mr. GOODE, Ms. GRANGER, Mr. BARR of Georgia, Mr. THORNBERRY, Mr. BASS, Mr. METCALF, Mr. COLLINS, Mrs. FOWLER, Mr. HASTINGS of Washington, Mr. TIAHRT, Mr. SCARBOROUGH, Mr. WAMP, Mr. CUNNINGHAM, Mr. KLUG, Mr. BRYANT, Mr. GRAHAM, Mr. DUNCAN, Mr. LARGENT, Mr. CHRISTENSEN, Mr. GUTKNECHT, Mr. DOOLITTLE, Mr. CHAMBLISS, and Mr. NEUMANN.

H.R. 1175: Mr. HERGER, Mr. DELLUMS, Mr. CUNNINGHAM, Mr. BERMAN, Mr. FILNER, Ms. LOFGREN, Ms. HARMAN, Mr. BILBRAY, Mr. GALLEGLY, Mr. CALVERT, Mrs. TAUSCHER, Mr. CAMPBELL, Mr. DIXON, Mr. RIGGS, Mr. HORN, Mr. TORRES, and Mr. PACKARD.

H.R. 1176: Mr. OWENS, Mr. NADLER, and Mr. DIXON.

H.R. 1181: Mr. COYNE, Mr. BORSKI, Mr. OBERSTAR, Mr. FLAKE, Mr. MCDERMOTT, Mr. MCNULTY, Mr. ENGEL, Ms. SLAUGHTER, Mr. SMITH of New Jersey, and Mr. MENENDEZ.

H.R. 1218: Mr. FRANK of Massachusetts.

H.R. 1231: Mr. HOUGHTON, Ms. DELAURO, Mr. BALDACCI, and Mr. DEFAZIO.

H.R. 1248: Mr. ROGERS.

H.R. 1258: Mr. LIPINSKI, Mr. TRAFICANT, and Mr. SESSIONS.

H.R. 1263: Mr. ABERCROMBIE, Mr. MATSUI, Mr. LAFALCE, Ms. ROYBAL-ALLARD, Mr. LEVIN, Mr. CUMMINGS, Ms. HARMAN, and Mr. WEYGAND.

H.R. 1266: Mr. WATTS of Oklahoma.

H.R. 1270: Mr. MCCOLLUM, Mr. WAMP, and Ms. KILPATRICK.

H.R. 1281: Mr. FORD, Mr. DEFAZIO, Mr. LIPINSKI, Mr. TALENT, Mr. BALDACCI, Mr. GOODE, Mr. FRANK of Massachusetts, Mr. UNDERWOOD, Mr. BARRETT of Wisconsin, Mr. EHLERS, Mr. PRICE of North Carolina, Mr. RUSH, Mr. OBERSTAR, Mr. RANGEL, Mr. GUTIERREZ, Mr. MENENDEZ, Mr. CLEMENT, Mr. PAYNE, Mrs. MINK of Hawaii, Mr. MCDERMOTT, Mr. HINCHEY, Mr. OLVER, Mr. EDWARDS, Mr. RAHALL, Mr. WAXMAN, Mr. BAESLER, Mr. KENNEDY of Rhode Island, Mr. POSHARD, Mr. ENGEL, Mr. ORTIZ, Mr. LEWIS of Georgia, Ms. DELAURO, Mr. SANDERS, Mr. BORSKI, Mr. BARCIA of Michigan, Mr. FILNER, Mr. DOOLEY of California, Mr. VISCLOSKY, Mr. MCHALE, Mr. LEVIN, Mrs. CLAYTON, Mr. BLAGOJEVICH, and Mr. COYNE.

H.R. 1283: Mr. HILL, Mr. HOBSON, Mr. DEAL of Georgia, Mr. WELDON of Pennsylvania, Mr. BLILEY, Mr. GOODE, Mr. FOLEY, Mr. BURR of North Carolina, Mr. SESSIONS, Mr. COOK, Mr. RILEY, Mrs. LINDA SMITH of Washington, Mr. ROYCE, and Mr. NETHERCUTT.

H.R. 1284: Mr. MANTON.

H.R. 1288: Ms. KILPATRICK, Mr. MCDERMOTT, Mr. RANGEL, Mr. ACKERMAN, and Mr. EVANS.

H.R. 1291: Mr. FORBES.

H.R. 1292: Mr. DELLUMS and Mrs. MALONEY of New York.

H.R. 1297: Mr. BROWN of California.

H.R. 1299: Mr. HEFNER, Mr. GORDON, Mr. MICA, Mr. BOUCHER, Mr. MCINTOSH, Mr. HOUGHTON, Mr. HAYWORTH, Mr. SNOWBARGER, Mr. BUNNING of Kentucky, Mr. PETRI, and Mr. CAMP.

H.R. 1301: Mr. FALEOMAVAEGA.

H.R. 1302: Mr. BARCIA of Michigan and Mr. FORD.

H.R. 1311: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PALLONE, Mrs. MALONEY of New York, and Mr. LIPINSKI.

H.R. 1327: Mr. SNOWBARGER, Mr. PAPPAS, and Mrs. NORTHUP.

H.R. 1338: Mr. PAPPAS.

H.R. 1349: Ms. CHRISTIAN-GREEN and Mr. RANGEL.

H.R. 1355: Ms. ROS-LEHTINEN, Mr. BUNNING of Kentucky, Mr. KENNEDY of Massachusetts, Mr. SMITH of New Jersey, Mr. FROST, Mrs. MEEK of Florida, and Mr. NEAL of Massachusetts.

H.R. 1362: Mr. NETHERCUTT, Mr. MANTON, Mr. WHITFIELD, Mr. MILLER of California, Mrs. KELLY, Mr. HILLIARD, Mr. NEY, Mr. PASCRELL, Mr. FROST, Ms. DELAURO, and Mr. KLUG.

H.R. 1375: Mr. LIPINSKI, Mr. MCNULTY, Mr. CLEMENT, and Mr. FILNER.

H.R. 1379: Mr. SMITH of Michigan and Mr. BOB SCHAFFER.

H.R. 1383: Mr. BONIOR, Mr. HILLIARD, and Mr. LIPINSKI.

H.R. 1395: Mrs. MALONEY of New York.

H.R. 1420: Mr. MILLER of California.

H. Con. Res. 35: Mr. MCINTOSH.

H. Con. Res. 65: Mr. SMITH of New Jersey, Mr. METCALF, and Mrs. KELLY.

H. Res. 22: Mr. LEWIS of Georgia, Ms. SLAUGHTER, Mr. ROTHMAN, and Mr. FALEOMAVAEGA.

H. Res. 93: Mr. BARCIA of Michigan, Mr. CAPPS, Mr. HINCHEY, Ms. RIVERS, Mr. SANDERS, and Mr. DEUTSCH.

H. Res. 104: Mrs. KELLY, Mr. OLVER, Mr. PAYNE, Mr. SERRANO, Mr. KING of New York, Mr. LANTOS, Mrs. LOWEY, Mr. FROST, and Mr. SMITH of New Jersey.

H. Res. 122: Ms. NORTON, Mr. SANDERS, Mr. RANGEL, Mr. MCCRERY, Mr. VENTO, and Mrs. NORTHUP.

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. 1031: Mr. FROST.

SENATE—*Thursday, April 24, 1997*

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

PRAYER

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

Almighty God, who calls us to seek peace and not war, but who has blessed us in victory in just wars fought for the righteous cause of freedom and justice, we seek Your guidance for the crucial decisions about the Chemical Weapons Convention. Our hearts and minds are united with You in abhorrence and judgment on the use of chemical weapons. Thank You for the diligence with which the Senate has debated the issues of ratification of the treaty. The research and clear communication on both sides of these issues have brought illuminating discussions. Sharp differences remain about ratification. Now the hour of decision approaches.

Father, fuel with Your presence and glory this Chamber and then the Old Senate Chamber during the executive session. May the Senators seek Your guidance, clarify their convictions, and then cast their votes with a sense that they have done their very best. When the votes are counted and the result is declared, unite the Senators in the unbreakable bond of unity rooted in a mutual commitment to patriotic leadership of our Nation.

Dear God, guide this Senate and bless America. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, of Mississippi, is recognized.

Mr. LOTT. Mr. President, I thank you for the recognition. And I want to thank the Chaplain, as always, for his very thoughtful and helpful prayers.

SCHEDULE

Mr. LOTT. For the information of all Senators, today, at 10:30 a.m., the Senate will begin a closed executive session in the Old Senate Chamber to continue the debate on the Chemical Weapons Convention so that Members can be briefed on certain classified information. This is the first time in several years that we have had such a briefing. I urge all Senators to attend. I think they will find it very interesting. They need to know what will come out of this briefing before they make a final decision.

The closed session is expected to last until approximately 12:30. After the expiration of time for the closed session, the Senate will then immediately resume consideration of the treaty in this Chamber. By previous consent, the Senate will continue the debate with respect to the treaty until all time is expired or is yielded back under the time agreement. I think there is something like 1 hour 40 minutes or 2 hours of general time remaining, something about that amount.

In addition, by consent, the five motions to strike will be in order at any time following the closed session. Separate votes on each of the motions are expected. Therefore, Senators can expect votes throughout the day and into the evening in order for the Senate to complete action on the treaty today. It would appear to me that the final vote will come sometime between 8 and 9 o'clock probably, perhaps a little earlier, but that is the way it looks at this point.

Again, I encourage all Members to participate in this important debate beginning in a few minutes in the Old Senate Chamber.

PRIVILEGE OF THE FLOOR

Mr. LOTT. Mr. President, I ask unanimous consent that the following individuals, in addition to those officers and employees referred to in standing rule XXIX, be granted floor privileges during today's closed session, and I send the list to the desk.

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

The list is as follows:

Kathleen Alvarez.
Steven Biegun.
Marshall Billingslea.
Joel Breitner.
Romie Brownlee.
Charles D'Amato.
Michael DiSilvestro.
Jeriel Garland.
Lorenzo Goco.
Frank Jannuzi.
Taylor Lawrence.
Edward Levine.
David Lyles.
Mary Jane McCarthy.
Sheila Murphy.
James Nance.
John Roots.
Randall Scheunemann.
Christopher Straub.
Puneet Talwar.
Peter Flory.

CONFIDENTIALITY OF EXECUTIVE SESSIONS

Mr. LOTT. Mr. President, I would like to call the attention of all Senators and staff to rule XXIX of the Standing Rules of the Senate which addresses the confidentiality of executive sessions. Paragraph 5 of standing rule XXIX reads as follows:

> Any Senator, officer, or employee of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer or employee, to dismissal from the service of the Senate, and to punishment for contempt.

I urge my colleagues to keep this in mind when approached by the media for comments on these proceedings.

[ORDER FOR RECESS]

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 10:30 a.m. following brief remarks by Senator HAGEL and Senator BINGAMAN, at which time the Senate will then reconvene in the Old Senate Chamber for a closed executive session.

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

Mr. LOTT. Does the Senator seek recognition?

Mr. BIDEN. Only to recognize Mr. HAGEL.

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

EXECUTIVE SESSION

CHEMICAL WEAPONS CONVENTION

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I ask, how much time do I have remaining?

The PRESIDING OFFICER. First we will have the clerk report the pending business.

The assistant legislative clerk read as follows:

> Treaty Document No. 103–21, the convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction.

The Senate resumed consideration of the convention.

The PRESIDING OFFICER. The Senator from Delaware has 1 hour 30 minutes remaining.

Mr. BIDEN. Mr. President, I yield 7 minutes to my distinguished colleague from Nebraska, and if he needs more time, let me know. We are kind of tight on time. Then, in accordance with the unanimous-consent request by the majority leader, I will yield 7 minutes of my time to the distinguished Senator from New Mexico, [Mr. BINGAMAN].

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 7 minutes.

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

Mr. HAGEL. Mr. President, I thank you.

Mr. President, it was 30 years ago this week that I joined the U.S. Army. It was 29 years ago this week, with my brother Tom, that I was first wounded in Vietnam. This is an important week of reflection for me as we take up the final hours of debate on the Chemical Weapons Convention.

I rise this morning to say that I will vote for the Chemical Weapons Convention. America's national security interests are better served with this treaty than without it. Our men and women in uniform are better served with this treaty than without it.

There are few Senators who have put as much time in on this issue than I have, studying this treaty over the past few weeks. As a freshman Senator, I began with very limited knowledge about this convention. I had to understand it totally before I could make an intelligent vote on the treaty.

This treaty is much improved from the form in which it was first submitted to the Senate. I would have voted against this treaty in its original form.

But as the Framers of our Constitution intended, the Senate has worked its will and has substantially strengthened the final agreement. Because of the strong leadership and negotiation, in my judgment, the balance has tipped strongly in favor of ratification of this convention.

The people of this country should recognize the important roles that Majority Leader LOTT, Chairman HELMS, and Senators BIDEN, LUGAR, and KYL played in this debate. They allowed the Senate the opportunity to listen, to learn, and to understand this treaty, to debate this treaty, and they have brought a more informed Senate together to vote on this treaty as we will throughout the day.

That is what this body, the Senate, should be about, debating important issues that have consequences for all Americans. This convention will have consequences for all peoples around the globe.

Under the leadership of Majority Leader LOTT, Senator BIDEN, the administration, and others, the Senate made 28 substantial changes to the original treaty to address major problems in the treaty, several of which were key to improving it, in my opinion. The majority leader held a news conference 45 minutes ago and read a letter from the President—as far as I know, unprecedented in arms control conventions—laying out some of the concerns that this President has and this body has about issues in this convention. I think that, too, further strengthens this treaty.

We fully protected the constitutional rights of our businesses against unlawful searches and seizures by ensuring that international inspection teams must obtain a search warrant before entering any American facility. This means no challenge inspection will occur unless a U.S. Federal judge finds probable cause to believe a violation of law has occurred at that facility. The rights guaranteed under our Constitution will continue to reign supreme.

We ensured that the American military will be able to use nondeadly riot control agents, such as tear gas. As military operations become increasingly complex and involve more areas with civilian populations, it is imperative that our military commanders have the maximum flexibility to employ a range of force, including nondeadly force.

We made clear that our existing national and international export controls will remain in place. The United States simply will not transfer chemical technology in any manner that would weaken our existing controls or military defense capabilities, or would tend to allow dangerous chemical technology to fall into the hands of pariah regimes.

We put in place safeguards to ensure that American intelligence data is protected whenever it is shared with the international organization that will oversee operations of the convention. We also prohibited chemical samples taken at American laboratories from being transferred off American soil—an important provision that helps protect proprietary and security information.

And, we took steps to ensure that the new international organization set up to monitor and enforce the convention will not become an ill-managed bureaucracy that burdens the American taxpayer. We put a cap on the American contribution to that organization, and we required the organization to establish and maintain an independent inspector general.

I should like to close with this. As I have referenced, there are a number of improvements that have been made to this treaty. We have five more proposed conditions that remain in disagreement that we will vote on yet today. I will vote to strike at least four of those conditions because they would effectively prevent American participation in the convention and would undermine the very purpose of this treaty.

This treaty, however, is no magic instrument that will guarantee Americans and our troops safety from chemical attack. No treaty can substitute for unwavering American strength, determination, vigilance, and leadership. But this treaty is one more tool we can use to make chemical attacks less likely. It does improve our eyes.

With or without this treaty, the United States years ago decided never again to use chemical weapons and is committed by law to completely destroy our stockpile of chemical weapons by early in the next century. That decision was made during the Reagan administration and was reaffirmed by the Bush administration.

The important question now is, what can we do to give ourselves more leverage to press other countries to do the same? It is a very important question. Ratifying this treaty is not the end of our efforts to make chemical attacks on Americans less likely. To the contrary, it is only the beginning. As President Reagan's top arms control negotiator, Ronald Lehman, said last week before our Foreign Relations Committee:

> Ratification is essential to American leadership against proliferation of weapons of mass destruction, but ratification alone is not enough. Strong follow-up involving all branches of Government will be vital.

We must now use the tools of this treaty effectively. The treaty tools give us, I believe, the most effective way to deal with the proliferation of chemical weapons. We must keep America strong. We must keep America vigilant. The Senate has an important and ongoing role to play in making sure this treaty is implemented properly, and I am committed as a Senator to making that happen.

For me, this has never been a political issue, Mr. President. This vote is not about Republicans. It is not about Democrats. It is not about conservatives, not about liberals. It is not about Bill Clinton. It is not about TRENT LOTT. This vote is about America's national security interests. It is about our young men and women in uniform all over the world who may someday face an adversary with chemical weapons. It is about each Senator doing what he or she thinks is in the best interests of our country.

For those reasons, Mr. President, I urge our colleagues to vote for ratification of the Chemical Weapons Convention.

I yield my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Before the Senator yields back all his time, if he will yield to me for a comment.

Mr. HAGEL. Yes.

Mr. BIDEN. Mr. President, I am obviously very pleased with the decision the Senator from Nebraska made, but I want to state on the record that I would have been comfortable with whatever decision he made, and I say that for the following reasons. I have been here for 24 years. It has been a long time since I have been a freshman Senator, but I remember how overwhelming it was and the pressures that are exerted, legitimate pressures, when major issues confront someone. I have watched the Senator from Nebraska from the day he got here, because we serve on the same committee, attack with a seriousness of purpose I have seldom seen one of the most complicated issues that is going to come

before this body this year. It was not merely determining what groups, what party, what factions of parties were for and against the treaty. He wanted to know what article X meant in the language. He wanted to know whether article I trumped article X. He wanted to know the details of it, and he addressed it.

He indicated that this is the eve of an anniversary. It seems appropriate and totally consistent, I am going to say for the record—I hope I do not embarrass him—what I said to him privately. I have also observed another feature about him. This is a man whose conduct on the battlefield is mirrored by his conduct in politics, in that when he thinks he is right he is not afraid to do whatever it is he thinks he should do. And that comes through. That is what I mean when I say I would have been comfortable and assured that he had given it every consideration had he concluded to vote the other way. I want to publicly compliment him, not for the decision he made, but the way he made the decision. I hope that does not cost him politically, for someone on this side of the aisle to compliment my colleague.

There is another freshman Senator I serve with, Senator GORDON SMITH, who may not come to the same conclusion, but he has addressed it with the same kind of alacrity and commitment. So I just say it is a pleasure to serve with the Senator and our colleague, Senator SMITH. But as I said, I am happy he came out the way he did. Regardless of how the Senator came out, I would have been comfortable.

I yield the floor.

Mr. HAGEL. I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for 7 minutes.

Mr. BINGAMAN. Mr. President, thank you.

I thank the manager of the bill, the Senator from Delaware, for yielding me time.

I also commend my colleague from Nebraska. I sat through a meeting with him and the Senator from Delaware at the White House where he asked some very penetrating questions. The President and the Vice President were there. The Secretary of State was there. Our Ambassador to the United Nations and a great many individuals who studied this treaty were there. And I am very pleased to see the decision that our colleague from Nebraska has made.

Mr. President, a point that was made by the Senator from Nebraska I think needs to be foremost in our minds, and that is that this is different from all other treaties that have come before the Senate since I have been here, in that this does not ask us to give up any military capability that we have not already decided to give up.

Most treaties involve an agreement by us to give up military capability in return for other nations giving up military capability. But we have decided unilaterally during the Reagan administration and have maintained the policy ever since then that we are going to renounce the use of chemical weapons, destroy our stockpile of chemical weapons. What this treaty does is try to find ways to bring other nations to that same decision.

President Reagan did commit to that in the 1980's. President Bush reiterated that position. President Clinton has certainly done so as well. That is a central part of this discussion that needs to be kept in mind.

A second part of the discussion that needs to be kept in mind is that by going ahead and ratifying this treaty, we give up no other tools that we have to prevent chemical attack or to retaliate against someone who might begin a chemical attack.

This is not: Do you want to have the ability to retaliate, or, on the contrary, do you want the treaty? We are going to retain in the future all capabilities to retaliate which we presently have. We stated very definitively in one of the conditions that is attached to this treaty that we will use a massive force to respond to any chemical attack. We do not consider a chemical weapons attack by a potential adversary or adversary to be comparable to a conventional attack; therefore, people need to know that we are not giving up any of our abilities or resolve in that regard.

I think these two factors are persuasive. We have chosen to destroy our own chemical weapons anyway, whether this treaty goes into effect or not. And, second, we maintain the ability to retaliate against any chemical weapons attack with all the strength that we have today.

So what does the treaty buy us?

It buys us an international agreement with other nations that will, hopefully, bring them also to give up their chemical weapons stockpiles. And it puts in place mechanisms to ensure that they do that.

It buys us a guarantee that other nations which might have chosen to build chemical weapons will find it much more difficult to do so.

It buys us a likelihood that if anyone decides to cheat on the treaty, we will have the ability to detect that. It enhances our intelligence-gathering capability substantially. As the Director of the CIA testified—he said this treaty gives us tools that we do not now have to look into places where we cannot now look.

There have been some concerns raised. I will not go into those. I think they have been addressed extensively in the various conditions that have already been added to the treaty.

Let me just say a few words about the amendments that are being proposed.

The first amendment calls for us to withhold ratification until the Russian Duma agrees to the ratification and agrees to comply with an earlier statement about the destruction of chemical weapons.

Mr. President, what this does is essentially make our foreign policy and our national policy hostage to what the hard-liners in the Russian Duma decide to do. It gives the Russians an excuse for not ratifying the treaty if we do not. I think it would be contrary to our best interests.

A second amendment that will be offered, which I will oppose—or second effort to strike that I will support, deals with an amendment that would destroy the potential benefits of the Chemical Weapons Convention. It would require us to withhold ratification until various other countries, such as China, North Korea, Libya, and others, have ratified the treaty.

Again, this provision would essentially shift to others the ability to define what is in our own best national interest. That cannot be a good thing for the United States.

A third amendment deals with requiring us to reject inspectors from countries that have supported terrorism.

Mr. President, we have the ability under the treaty to reject any inspectors we do not want to permit to come into this country and inspect. But it does not serve our interest to require, put into law a requirement, that certain inspectors be rejected at this early stage because, clearly, that will give them the same ability to reject our inspectors. That is not in our best interest.

We will have the ability to decide any information that we will exchange with other countries. That has been a confusion about this treaty, Mr. President, that needs to be cleared up.

When all the debate is concluded at the end of the day today, I believe it serves our national interest to go ahead and ratify the treaty. I believe it will contribute to a more peaceful world. Like all treaties, it lacks perfection. But the acid test is: Will this generation of Americans and future generations of Americans be less likely to confront chemical weapons on the battlefield or in a civilian context if this treaty is ratified? In my view, it is clear that they will be less likely to confront chemical weapons if we go ahead today. I hope very much my colleagues will join in supporting the treaty.

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

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

Will the Senator withhold the quorum request?

Mr. BINGAMAN. I withhold.

RECESS UNTIL 10:30 A.M. FOR A CLOSED SESSION IN THE OLD SENATE CHAMBER

The PRESIDING OFFICER. Under the previous order, the Senate will recess and reconvene at the hour of 10:30 a.m., in the Old Senate Chamber.

Thereupon, the Senate, at 10:22 a.m., recessed under the previous order and reconvened in closed session at 10:32 a.m., in the Old Senate Chamber; whereupon, at 12:50 p.m., the Senate recessed the closed session, and the Senate reassembled in open session, under the previous order, at 1 p.m., when called to order by the Presiding Officer (Mr. ENZI).

CHEMICAL WEAPONS CONVENTION

The Senate continued with the consideration of the convention.

The PRESIDING OFFICER. The pending business before the Senate is ratification of the Chemical Weapons Convention.

The Senator from North Carolina has 1 hour and 20 minutes. The Senator from Delaware has 46 minutes.

Mr. HELMS. Mr. President, I yield 7 minutes to my friend from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

May I ask my good friend if he didn't wish that the time be charged to the Senator from Delaware?

The PRESIDING OFFICER. The time will be charged to the Senator from Delaware.

Mr. MOYNIHAN. I thank the Chair. I thank my dear friend, the chairman.

Mr. President, I rise in support of the resolution of ratification. I will take just a moment of the Senate's time to put this matter in a historical context.

Since its development by 19th century chemists, poison gas—as it was known—has been seen as a singular evil giving rise to a singular cause for international sanctions.

In May 1899, Czar Nicholas II of Russia convened a peace conference at The Hague in Holland. Twenty-six countries attended and agreed upon three conventions and three declarations concerning the laws of war. Declaration II, On Asphyxiating or Deleterious Gases stated:

> The Contracting Parties agree to abstain from the use of projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases.

Article 23 of the Annex to the Convention added:

> In addition to the prohibitions provided by special Conventions, it is especially forbidden:
>
> (a) To employ poison or poisoned weapons * * *

Our own Theodore Roosevelt called for a second peace conference which convened in 1907. This time, 45 countries were in attendance at The Hague, and reiterated the Declaration on Asphyxiating Gases and the article 23 prohibition on poisoned weapons.

The Hague Conventions notwithstanding, poison gas was used in World War I. Of all the events of the First World War, a war from which this century has not yet fully recovered, none so horrified mankind as gas warfare. No resolve ever was as firm as that of the nations of the world, after that war, to prevent gas warfare from ever happening again.

Declaring something to be violation of international law does not solve a problem, but it does provide those of us who adhere to laws mechanisms by which to address violations of them. In June 1925, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare was signed in Geneva. This reaffirmed the Hague prohibition and added biological weapons to the declaration.

In the Second World War that followed, such was the power of that commitment that gas was not used in Europe. It was expected, but it did not happen.

Then came the atom bomb and a new, even more important development in warfare. In time it, too, would be the subject of international conventions.

As part of the peace settlement that followed World War II, President Roosevelt, with the British, Chinese, and French, set up the United Nations. In 1957, within the U.N. system, the International Atomic Energy Agency was established. The new agency fielded an extraordinary new device, international inspectors, who began inspecting weapons facilities around the world to ensure compliance. This was enhanced by the Nuclear Non-Proliferation Treaty (NPT), which came into force in 1970, allowing inspectors to monitor declared nuclear sites. This was an unheard of compromise of traditional sovereignty. It has not worked perfectly. The number of nuclear powers, or proto-nuclear powers, has grown somewhat. But only somewhat: around 10 in a world with some 185 members of the United Nations. And never since 1945 has a single atomic weapon been used in warfare.

The Chemical Weapons Convention incorporates the advances in international law and cooperation of which I have spoken; it extends them. Its inspections can be more effective than the IAEA because of the ability to conduct challenge inspections when violations of the CWC are suspected.

If the Senate should fail—and it will not fail—to adopt the resolution of ratification, it would be the first rejection of such a treaty since the Senate in 1919 rejected the Treaty of Versailles, with its provision for the establishment of the League of Nations. It would be only the 18th treaty rejected by the Senate in the history of the Republic.

Every living Chairman of the Joint Chiefs of Staff over the past 20 years has called for ratification of the Chemical Weapons Convention.

Our beloved former colleague, Senator Bob Dole, has given his support and asked us to do what I think we can only describe as our duty. The President pleads.

Here I would note a distinction. In 1919, Woodrow Wilson could have had the Versailles Treaty, we could have joined the League of Nations, if only he had been willing to make a modicum of concessions to then-chairman of the Foreign Relations Committee and majority leader, Henry Cabot Lodge of Massachusetts. Wilson was too stubborn; in truth, and it pains an old Wilsonian to say so, too blind. Nothing such can be said of President Clinton. In a month of negotiations with the current chairman of the Foreign Relations Committee and the current Republican leader, the administration has reached agreement on 28 of 33 conditions. Only five proved unacceptable. And, indeed, sir, they are. The President could not in turn ratify a treaty with those conditions.

Again to draw a parallel with 1919. During consideration of the Treaty of Versailles, the Senate was divided into three primary camps: those who supported the treaty; those who opposed the treaty, no matter what shape or form it might take—known as "irreconcilables" or "bitter enders"—and those who wanted some changes to the treaty, most importantly led by Senator Lodge.

There are some modern day irreconcilables who oppose this Treaty for the same reason they eschew international law: viewing it as an assertion of what nice people do. Such a view reduces a magisterial concept that there will be enforced standards to a form of wishful thinking. A position which runs counter to a century of effort. Today I would appeal to those Republicans who might compare themselves with Senator Lodge. Unlike 1919, this President has heard your concerns and worked carefully to address them in the form the resolution of ratification containing 28 conditions which is now before the Senate.

To fail to ratify the CWC would put us on the side of the rogue states and relieve them of any pressure to ratify the convention themselves. As Matthew Nimitz has argued, the United States has a unique interest in international law because it cannot "match the Russians in deviousness or the Libyans in irresponsibility or the Iranians in brutality * * *. [It is the United States] which stands to lose the most in a state of world anarchy."

The Chemical Weapons Convention builds on the laws of The Hague: a century of arms control agreements. It bans chemical weapons—hideous and barbaric devices—completely. International law can never offer perfect

protection, but we are primary beneficiaries of the protection that it does provide. I urge my colleagues to support this important treaty.

I thank the Chair. I yield the floor.

Might I ask? Does time run consecutively and is it divided equally?

The PRESIDING OFFICER. Yes. It will be divided equally.

Mr. MOYNIHAN. I thank the Chair.

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

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

Mr. BIDEN. Mr. President, I yield 3 minutes to my friend from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I ask unanimous consent that a congressional fellow from my office, Ashley Tessmer, be allowed in the Chamber during the Chemical Weapons Convention debate.

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

Mr. WELLSTONE. Mr. President, the Chemical Weapons Convention goes into force April 29 with or without U.S. participation. This, after more than 100 years of international efforts to ban chemical weapons, including the Hague Convention of 1889 and the Geneva Protocol of 1925 which placed restrictions on the use of chemical weapons. The history of chemical weapons use is a long one—from 1915 with the German use of chlorine gas in Belgium during World War I, to the Iraqi use of poison gas to kill an estimated 4,000 people in the Kurdish village of Halabja in 1988, and the very recent threat of chemical weapons use in the Persian Gulf war.

These chemical weapons are dangerous—not only because of intentional, but also accidental use. In Minnesota, I've listened to many gulf war veterans who've told me about their experiences during the conflict. Much is still unknown about chemical weapons use in the gulf and there is great concern throughout the Minnesota veterans community. I've seen the tragic effects of this when I've met with gulf war veterans who went to the gulf in perfect health but became seriously ill after they returned. While many are uncertain about the causes of their illnesses, they suspect that exposure to toxic chemical agents was a factor.

Mr. President, I want to tell my colleagues about a story I recently heard concerning veterans who were part of the 477th Ambulance Company who may have been exposed to toxic chemicals. After the war, a couple of company members went exploring the area nearby and noticed a spill on the floor of a warehouse. There's no way of knowing now exactly what the substance was, but they are concerned about possible exposure to a nerve agent. They were alarmed because even this kind of low-level exposure can be a serious threat to our soldiers' safety and health. The plea from the Minnesotan who told this story is, "Please! Get everyone to stop using this junk!" Well, that is exactly what we are trying to do, and ratifying the CWC is a vital step in that direction. If we don't sign up, America's soldiers—and indeed, all Americans—will be the worse for it.

Another Minnesotan who was a nuclear-biological-chemical warfare specialist during the war talked about the panic and incorrect use of protective equipment that occurred when there were scud alerts accompanied by CBW alerts. There were soldiers who just couldn't handle the threat of possible chemical attacks. And why should we be surprised? The use of chemical weapons is inhuman and even the perceived threat has to be psychologically damaging. These stories just strengthen my resolve to do all I can to push for ratification of this treaty.

Mr. President, we face a decision between taking a lead role in this effort or standing on the sidelines—this decision should not be difficult for the United States which historically has taken the lead in arms control, seeking agreements that are in the national interest, verifiable, and contribute to world peace. I repeat in the national interest, verifiable, and contribute to world peace. And there is no question in my mind that the CWC fully meets these standards.

To me, it is a great mystery why this treaty is not already ratified. After all, Congress directed in 1985 that all U.S. chemical munitions be destroyed by 1999—since amended to 2004. Subsequently in 1993, the United States became one of the original signatories of the CWC, now awaiting ratification by this body. It would seem that there's nothing so dramatic as waiting until the last minute to make an obvious and sensible decision. This international treaty takes a major step forward in the elimination of the scourge of chemical weapons. As the world's only superpower and leader in the fight for world peace, we must be out front on this convention.

This treaty itself has a very interesting and solid bipartisan history as well as strong popular support, and I am mystified as to why some of my colleagues want to reject a treaty for which we are largely responsible. The CWC was conceived during the Reagan administration, crafted and signed during the Bush administration and further negotiated during the Clinton administration. Former President Bush has continued to proclaim strong support for ratification. Its bipartisan creditials are thus impeccable. Legislators and national security experts from both parties firmly support it. Former Secretary of State James Baker argues that it is outrageous to suggest that either Presidents Bush or Reagan would negotiate a treaty that would harm national security. President Clinton sees the accord as building on the treaty than bans nuclear tests in the atmosphere that President Kennedy signed more than three decades ago. The Senate now needs to complete the weapons-control work to which Presidents Kennedy, Reagan and Bush and Clinton were and have been committed.

By at least restricting the manufacture, sale, and possession of toxic chemicals capable of being used as weapons, the United States makes it more difficult for rogue nations or terrorist organizations to obtain the raw material for weapons. Ultimately, we then better protect our soldiers and civilians. We should help lead the world away from these graveyard gases, and not pretend they are essential to a solid defense. Do we plan to use chemical weapons? No. Then do we lack the courage to lead? I certainly hope not.

Mr. President, according to Secretary of State Madeleine Albright, the United States is the only nation with the power, influence, and respect to forge a strong global consensus against the spread of weapons of mass destruction.

There is also support for this treaty from the armed services. I have the unique perspective of serving on both the Foreign Relations Committee and the Committee on Veterans' Affairs. I know that many veterans organizations support this treaty—VFW, VVA, Reserve Officers Association of U.S., American Ex-prisoners of War, AMVETS, Jewish War Vets to name a few. What better testimony to its value? The treaty will reduce world stockpiles of weapons and will hopefully prevent our troops from being exposed to poison gases. And, for my colleagues who are still not convinced on the merits of the treaty—over three quarters of the American public—as much as 84 percent in a recent poll, favors this treaty.

But why then are there opponents to this treaty? I cannot answer that. I can only say that it is always easier to tear something down than it is to build it. Ask ethnic minorities in Iraq—who were the victims of Saddam's chemical attacks—why there are opponents. Ask Generals Schwartzkopf and Powell why there are opponents. According to General Powell, this treaty serves our national interest—to quote his comments at last week's Veterans' Affairs Committee hearing: "For us to reject that treaty now because there are rogue nations outside the treaty is the equivalent of saying we shouldn't have joined NATO because Russia wasn't a part of NATO." If we don't sign this treaty,

there will still be rogue nations. Ask the State Department, the intelligence community, the chemical manufacturers who stand to lose as much as $600 million in sales, why there are opponents to this treaty. And ask our own gulf war veterans who lived with the fear of chemical attack and may now be suffering the effects of exposure to chemicals why there are opponents. They and I will never understand it.

Mr. President, ratification of the Chemical Weapons Convention is crucial to all nonproliferation efforts. If America's message to the world is that the United States is not deeply concerned about the production of weapons of mass destruction, then it will encourage rogue states to either continue clandestine projects or to begin producing these weapons that could imperil U.S. troops in future conflicts. Lack of U.S. resolve on the CWC and the unraveling effect it would have on other arms control treaties, would make it easier for rogue states in two ways: they could more easily acquire chemical weapons materials and more effectively hide their production programs. How can we best protect the future of our children, our soldiers, our trade, our country's position in the world? By ratifying this treaty.

I'm deeply puzzled as to why, when at long last the Senate is on the verge of giving its advice and consent to CWC ratification, we are being asked to consider treaty-killer conditions. Again, I remind my colleague, this treaty has been more than 15 years in the making with two Republican Presidents and one Democratic President involved in negotiating and crafting the final product. It is the result of years of bipartisan efforts. The CWC has been strongly endorsed by former Secretary of State James Baker and former National Security Adviser Brent Scowcroft—both of whom served Republican Presidents. It also enjoys the support of our top commanders during the Persian Gulf war, including General Schwarzkopf, who clearly recognize that it is in our national interest to ratify the treaty.

While I do not question the motives and integrity of my colleagues who support these four killer conditions, it is clear that they are not a result of insufficient Senate scrutiny and debate. In fact, the CWC has been before the Senate since November 1993, when it was submitted by President Clinton. During the past 3½ years, the Senate has held 17 hearings on the treaty and the administration has provided the Senate with more than 1,500 pages of information on the CWC, including over 300 pages of testimony and over 400 pages of answers to questions for the record. It is important to recall that in April 1996 the Senate Committee on Foreign Relations voted the treaty out of committee by a strong bipartisan majority, 13 to 5. Why then, only 1 year later, are we confronting four conditions, any of which will prevent us from ratifying the treaty by April 29 when it will automatically go into effect, and a fifth condition that is unacceptable and would undermine the treaty?

Mr. President, I hope that all of my colleagues realize that the United States will incur serious costs if we don't submit instruments of ratification by April 29. Unless we join the convention now, the United States will be barred from having a seat on the executive council, the key decision-making body of the convention, for at least a year and, perhaps, longer. We would thus be precluded from influencing vital decisions to be made by the executive council regarding the detailed procedures that will be followed under the convention. Moreover, sanctions against U.S. companies—the requirement that they obtain end-user certificates to export certain chemicals—will commence on April 29 if we are not a convention party. If we still haven't joined in 3 years, U.S. firms would be subject to a ban on trade in certain chemicals. In addition, U.S. citizens won't be hired as officials or inspectors by the body that will implement the convention until the United States becomes a party to the CWC. And, even more important than these costs to the United States, is the fact that failure to ratify the treaty, which was produced because of U.S. leadership, will have a negative impact on American leadership around the world.

While I will never understand why we have come to such a pass, it is crystal clear to me why we have to move to strike all five of these conditions. Mr. President, permit me to briefly summarize each of the five conditions and to spell out the key reasons why I'm unalterably opposed to them:

CWC condition No. 29 on Russia precludes the United States from joining the convention until Russia ratifies and satisfies other specified conditions. This is a killer condition that would hold hostage our ability to join the CWC to hardliners in the Russian Duma. As the President put it, "this is precisely backwards [since] the best way to secure Russian ratification is to ratify the treaty ourselves." I couldn't agree more with the President, whose position parallels that of Vil Myrzyanov, a Russian scientist who blew the whistle on the Soviet Union's CW program and strongly backs the treaty. In a recent letter to my distinguished colleague, Senator LUGAR, he said "Senate ratification of the convention is crucial to securing action on the treaty in Moscow." Unless, my colleagues join me in striking this amendment, we'll be permitting Russian hardliners to decide our foreign policy, while dimming prospects that Russia—which has the world's largest stockpile of chemical weapons—will ratify the CWC. How can this be in our national interest?

CWC condition No. 30 on rogue states bars the United States from ratifying the CWC until all states determined to possess offensive chemical weapons programs, including China, North Korea, Libya, Syria, Iran, and Iraq, and other states deemed to be state sponsors of terrorism, have ratified. This is a killer condition likely to prevent the United States from ever joining the CWC. If this condition is not struck we would be using the lowest common denominator as a principle for determining our foreign policy. The United States would be placed in the bizarre and embarrassing position of allowing the world's most recalcitrant regimes to determine when we join the CWC, if ever. As former Secretary of State James Baker has said: "It makes no sense to argue that because a few pariah states refuse to join the convention the United States should line up with them rather than the rest of the world." Makes no sense at all, which is precisely why I strongly support striking this condition.

CWC condition No. 31 on barring CWC inspectors from a number of countries such as Cuba, Iran, Iraq, and North Korea, from ever entering the United States as part of CWC inspection teams. This is an unnecessary condition that has the potential to seriously hamstring CWC implementation. To begin with, the United States already has the right under the CWC to bar inspectors on an individual basis each year when the CWC proposes its list of inspectors. If this condition is not struck, it is likely to provoke reciprocity, resulting in other nations blackballing all American inspectors. This would have the perverse effect of undermining one of our main objectives in joining the treaty: to ensure American inspectors take the lead in finding violations. In addition, condition No. 31 would bar inspectors from a country like China even if United States national security might be better served by letting them confirm directly that the United States is not violating the CWC, but fails to require rejection of inspectors from other countries who might be known spies or have a record of improper handling of confidential data. Because of these serious flaws, I urge my colleagues to join me in voting to strike this condition.

CWC condition No. 32 which prohibits the United States from joining the CWC until the President certifies that the parties to the convention have agreed to strike article X and amend article XI. This provision is an outright killer that will prevent the United States from joining the Convention. Clearly the President can't make such a certification prior to April, and likely won't ever be able to do so since the Convention permits a single State

party to veto such amendments. Proponents of condition No. 32 wrongly contend that the Convention requires the United States and other parties to share sensitive technology that will assist such countries as Iran to develop offensive CW capabilities.

In fact, Mr. President, neither article X nor article XI have such requirements. Article X, which focuses mainly on assisting or protecting convention member countries attacked, or facing attack, by chemical weapons, provides complete flexibility for states to determine what type of assistance to provide and how to provide it. One option would be to provide solely medical antidotes and treatments to the threatened state. This is precisely the option the President has chosen under agreed condition No. 15 which specifies that the United States will give only medical help to such countries as Iran or Cuba under article X. Moreover, beyond medical assistance, the President has made clear the United States will be careful in deciding what assistance to provide on a case-by-case basis. In sum, there is no valid justification for scrapping article X.

Opponents of the CWC contend that article XI, which addresses the exchange of scientific and technical information, requires the sharing of technology and will result in the erosion of export controls now imposed by the Australia Group of chemical exporting countries, which includes the United States. While this is plainly not the case, the President under agreed condition No. 7 is committed to obtain assurances from our Australia Group partners that article XI is fully consistent with maintaining export curbs on dangerous chemicals. Condition No. 7 also requires the President to certify that the CWC doesn't obligate the United States to modify its national export controls, as well as to certify annually that the Australia Group is maintaining controls that are equal to, or exceed, current export controls.

Mr. President, one final point regarding the Condition's proponents concern that articles X and XI will require technology that will assist other countries to develop offensive chemical weapons programs. Exchanges of sensitive technology and information provided under terms of both articles would be legally bound by the fundamental obligation of treaty article I, which obligates parties never to "* * * assist encourage, or induce, in any, anyone to engage in any activity prohibited to a State party under this convention." This would ban assisting anyone in acquiring a chemical weapons capability.

I strongly urge my colleagues from both sides of the aisle to join me in voting to strike this condition.

CWC condition No. 33 would prohibit the United States from ratifying the CWC until the President can certify high confidence U.S. capabilities to detect within 1 year of a violation, the illicit production or storage of one metric ton of chemical agent. Since this is an unachievable standard for monitoring the treaty, this is a killer condition that would permanently bar U.S. participation in the CWC.

Mr. President, no one can deny that some aspects of the CWC will be difficult to verify, nor can anyone affirm that any arms control agreement is 100 percent verifiable. And, as Gen. Edward Rowny, who was special adviser to Presidents Reagan and Bush, pointed out in the Washington Post any chemical weapons treaty is inherently more difficult to verify than a strategic arms treaty, under which missiles and bombers can be observed by national technical means. For one thing, chemical weapons can literally be produced in thousands of large and small laboratories around the world. But the bottom line is one made succinctly and clearly by General Rowny: "If we are within the CWC, well-trained and experienced American inspectors, employing an agreed set of procedures, intensive procedures, will have an opportunity to catch violaters. Outside the CWC, no such opportunity will exist." I couldn't agree more. As in many other matters, the perfect is not only unattainable but is also the enemy of the good. I hope than many of my colleagues will see this issue in the same light and will join me in voting to strike condition No. 33.

In conclusion, I want to stress that America has always been a leader in international arms negotiations. America should continue this proud tradition of leading the way. We as a nation have the opportunity to be one of the world's leading guardians of the peace through the application of this treaty; we can participate in safeguarding our armed forces, our citizens, our children from the horrors of chemical weapons; we can lessen the likelihood of chemical weapons being used again in warfare.

But to make all this possible, we must have the perspicacity and foresight to grab this fleeting opportunity, this historic moment where we decide to join with other nations to improve the quality of life worldwide and assure a safer, saner world. We have just celebrated Earth Day—and I ask what better way to honor our planet is there than by now ratifying a treaty that will protect and safeguard her people?

Mr. President, there is not a lot of time to go through such an important issue, but I thought I would just draw from some very poignant and personal discussion back in Minnesota that we have had with gulf war veterans.

To quote one of the veterans who himself is really struggling with illness which he thinks is based upon some exposure to chemicals during his service in the war, he said, "This is my plea. Please get everyone to stop using this junk."

I really do think that the more I talk to veterans with their service in the gulf war fresh in their mind, many of whom are ill, many of whom are struggling with illness, who were fine before they served in the war and are not now and want to know what has happened to them, there are two different issues. I have the honor of being on both the Veterans' Committee and the Senate Foreign Relations Committee. One, on the Veterans' Committee, is to get to the bottom of this and make sure veterans get the care they deserve. But the other is when we have such an important treaty, such a historically important agreement which is in the national interest, which is verifiable and which contributes to world peace and helps us get rid of this junk and is so important not only to our soldiers-to-be but also to children and grandchildren, Mr. President, I do not think there is any more important vote that we can make than one of majority support for the Chemical Weapons Convention.

In my State of Minnesota, I know that people are overwhelmingly for this agreement. People are under no illusion. They do not think it is perfect, but they think it is an enormous step forward for all of humankind, an enormous step forward for people in our country, an enormous step forward for people in other countries as well. Since the United States of America has taken a leadership position in the international community, in the international arena, it would be, I think, nothing short of tragic if we now were on the sidelines, if we were not involved in the implementation of this agreement, if we were not involved in exerting our leadership in behalf of this agreement.

I urge full support for this agreement, and I really do think I speak for a large, engaged majority in Minnesota.

I thank the Chair.

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

The PRESIDING OFFICER. If there is no objection, time will be deducted equally.

Mr. BIDEN. Mr. President, I withhold my suggestion of the absence of a quorum. I yield 7 minutes to my friend from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, today the Senate will vote on the Chemical Weapons Convention. President Reagan began the negotiations on this treaty. President Bush signed it. And President Clinton sent it to the Senate for our advice and consent.

We do a lot of things in this Chamber. Some of them are small and rather insignificant. But we also do some very big and important things and make

some big and important decisions. The vote this evening on this treaty is a very significant decision for the people of America and also people around the world.

There are some who have opposed virtually all efforts in all cases to limit arms. They vote against all of the arms control treaties, believing that they are not in our country's best interests. I think they were wrong, and I think they have been proven wrong in a number of areas.

In previous arms control agreements, we have achieved significant success in reducing the nuclear threat against this country. I held up in this Chamber—in fact, somewhere right near this spot—not too many months ago a large piece of metal that I held up from that missile is metal that comes from the scrap heap because the missile does not exist any longer.

In the missile silo that existed, in the hole in the ground in the Ukraine, that hole in the ground which contained a missile with a warhead ensconced in that silo, there is now simply dirt. And in that dirt are planted sunflowers—no missile, no silo—sunflowers.

Now, why are sunflowers planted where a missile was once planted, a missile with a nuclear warhead aimed at the United States of America? Because of an arms control agreement which required that that missile be destroyed. So sunflowers exist where a missile once stood poised, aimed at our country.

Arms control agreements have worked. This particular convention which we will vote to ratify today would eliminate an entire class of weapons of mass destruction.

One could come to the floor of the Senate today and hold up a vial of sarin gas, and if one should drop that vial of gas on this desk and it would break, those in this room might not be leaving the room; they might not survive. If someone came here with a vial and a gas mask and wore the mask and appropriate protective clothing, then they would suffer no consequences.

My point is, who are the most vulnerable in our world when there is a poison gas or chemical weapon attack? The population of ordinary citizens is the most vulnerable. There are armies, if forewarned, that can defend themselves against it, but the mass population of citizens in our countries is extraordinarily vulnerable to the most aggressive poison gas and chemical weapons known to mankind.

There are a lot of arguments that have been raised against this convention, but none of them make much sense. Our country has already decided to destroy our stockpile of poison gas and chemical weapons. We have already made that decision. President Reagan made that decision. We are in the process of finishing that job. The question before the Senate is whether we will join in a treaty ratified already by over 70 other countries, whether we will decide to work to eliminate chemical weapons and poison gas from the rest of the world, to decide that if ever American men and women who wear a uniform in service of our country go abroad or go somewhere to defend our country, they will not be facing an attack by chemical weapons or poison gas.

That is what this debate is about. This is not a small or an insignificant issue. This is an attempt by our country and others to join together to ban an entire class of weapons of mass destruction.

Mr. President, I have spoken several times in this Chamber about the vote that we are to take today. This vote is late. This debate should have taken place long ago, but it did not. We pushed and agitated and pushed and pushed some more to get it to the floor of the Senate because we face a critical end date of April 29.

I commend those who finally decided to join with us and bring this to the floor for a debate, but now as we proceed through several amendments and then final passage, it is important for the future of this country, for my children and the children of the world, that this Senate cast a favorable vote to ratify the treaty that comes from this convention. It will be a better world and a safer world if we do that.

I want to commend those who have worked on this in Republican and Democratic administrations, those whose view of foreign policy is that it is a safer world if we together, jointly, reduce the threats that exist in our world. Yes, the threat from nuclear weapons. We have done that in arms control treaties. Those treaties are not perfect, but we have made huge progress. And now, also, the threat of chemical weapons and poison gas.

I am proud today to cast a vote for a treaty that is very significant, and I hope sufficient numbers of my colleagues will do the same. I hope that the news tomorrow in our country will be that the United States of America has joined 74 other countries in ratifying this critically important treaty for our future.

Mr. President, I yield the floor and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The time will be divided equally.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Chair recognizes the Senator from Vermont, who has an hour under the agreement.

Mr. LEAHY. Mr. President, I yield myself such time as I may need under the hour reserved to the Senator from Vermont.

Mr. President, today the Senate will exercise its advice and consent authority under article II, section 2, clause 2 of the United States Constitution. We have to decide whether we will advise and consent to the Chemical Weapons Convention that has been the product of negotiations conducted by the Reagan, the Bush and the Clinton administrations. If we advise and consent to it, then President Clinton will be free to ratify the convention. If we do not, of course, he does not have that power to do so.

Last week I did not object to the unanimous-consent agreement by which the Senate is now finally able to consider the Chemical Weapons Convention. I did comment at that time on the manner in which we are proceeding. We have been forced to take the unusual step of discharging this important treaty from the Foreign Relations Committee without the benefit of committee consideration or a committee report. And, what is most extraordinary, is that it is the Republican leadership for the Republican majority that has insisted on this extraordinary procedure.

Last week we were required to discharge the Judiciary Committee from any consideration of S. 495, a bill that was taken up last Thursday with no committee consideration, no committee report, and an absolute minimum of debate. In fact, the Senate was asked to consider a revised, unamendable substitute version of the bill that was not made available to us until that very afternoon. I raised concerns that it might, in fact, serve to weaken criminal laws against terrorism. I daresay at least 90 out of the 100 Senators who voted on S. 495 last week had not read it and probably did not have much idea of what was in it.

I mention this because we have taken a lot of time for recesses this year but we did not come up with a budget on April 15, even though the law requires us to do so. The leadership decided not to bring one before the Senate to vote on. Each one of us had to file our taxes on April 15, or the IRS would have come knocking on the door, but even though the law requires the leadership to bring up a budget bill, none was. I am not suggesting we not bring up the Chemical Weapons Convention now. It should have been brought up last September. But I worry that the Senate is suddenly doing this, launching into issue after issue, not following the kind of procedures that would enable us to really know what we are talking about. I suggest that we should be looking at the way we have done this.

In 1988 I chaired hearings on the threat of high-tech terrorism. I continue to be concerned about terrorist access to plastique explosives, sophisticated information systems, electronic

surveillance equipment, and ever more powerful, dangerous weapons. With the sarin nerve gas attack on the Tokyo subway system 2 years ago, we saw the use of harmful chemicals to commit terrorist acts.

In our Judiciary hearings in 1988, 1991 and 1995, we heard testimony on easily acquired, difficult to detect chemical and biological weapons and explosions. On April 17, 1995, the date of the bombing of the Murrah Federal Building in Oklahoma City, we all learned how easy it is for somebody, intent on terrorism, to concoct a lethal compound out of materials as easily available as fertilizer.

So, for more than a decade I have raised issues about the threats of nuclear, biological and chemical terrorism. I have worked with Members on both sides of the aisle to minimize those threats. We have cooperated on measures included in the Violent Crime Control and Law Enforcement Act of 1994, and the Antiterrorism Act, passed in April of last year. We have concurred on those. Assuming we advise and consent today, and I think now that we will—I think some who wanted to hold it up realize that this is not the kind of posture they want to be in, especially as a party going into elections next year—but, assuming that we advise and consent and the President can ratify it, I look forward to working with Senator HATCH to promptly consider and report implementing legislation that will continue the progress we are making today.

I look forward to hearings in the Judiciary Committee on S. 610, having that committee consider that measure and report it to the Senate before the Memorial Day recess.

I do not expect the distinguished senior Senator from Utah, chairman of the Judiciary Committee, to bottle up this measure or to deny the Senate the benefit of our committee's views. I am going to try to get something approaching regular order. We have not on anything else yet this year, but maybe on this issue we could.

We have had the Chemical Weapons Convention before us since November 1993. As the April 28, 1997, deadline approaches—after which our lack of ratification risks economic sanctions against our chemical industry that would actually cost U.S. chemical companies hundreds of millions of dollars—I hope the Republican majority will join with the President and ratify it, and allow him to sign this treaty. I understand all Democrats will vote for it. I hope enough Republicans will, too.

In fact, our good friend and former colleague, Senator Bob Dole, endorsed ratification yesterday. I hope others are now going to follow him, because, really, we are deciding whether the United States will be a member of a treaty that goes into effect on April 29, with or without us. No matter what we do on the floor of the Senate, this treaty goes into effect on April 29. If we do not advise and consent, the United States will be left on the outside of the world community, with states like Iraq and Libya, which have refused to become parties to this important arms control measure. It is a fascinating situation, Mr. President. If we do not advise and consent, we can say we are standing shoulder to shoulder with Iraq and Libya because we did not join the chemical weapons treaty. This is one of the most ambitious treaties in the history of arms control. It bans an entire class of weapons, which have been one of the great scourges of the 20th century. In fact, this, along with antipersonnel landmines, have been among the greatest scourges of 20th century warfare. This treaty prohibits a full spectrum of activities associated with the offensive use of chemical weapons, including the development, production, acquisition, stockpiling and assistance to anyone engaging in these activities.

The convention creates a comprehensive verification regime which makes it easier to detect and monitor emerging chemical weapons threats. The vigorous verification procedures established in this treaty will help deter countries from developing chemical weapons, and will make it more likely that cheaters are detected. Those nations that do not ratify it, and we could be among them, will be subject to trade sanctions. Nonparticipating nations will also face increasing international pressure to comply, as their number dwindles to an unsavory few. I hope the United States will not be one of those unsavory few.

In the last day, I have heard preposterous statements from the Senate floor about what damage this treaty will do to our national security, about what a burden it will be on American business—the same businesses that are hoping that we will advise and consent to it; about how rogue states will suddenly produce unconstrained amounts of chemical weapons to use on our soldiers. Others eloquently exposed these charges for what they are: flat-out false.

What this debate is really about is how we monitor the rest of the world to ensure the use of these weapons is deterred and minimized. For we all know, the United States by law is committed to destroying our own chemical stockpiles by 2004. We are doing this because we know that these weapons have limited military utility and because civilized people around the world agree their use is morally wrong. And the United States is not going to use them.

So, how do we encourage other states to do what we are going to do anyway? Should we go at it unilaterally or multilaterally? Do we want American inspection teams to mount short notice inspections of potential violators or not? Do we want international penalties to apply to those who flout this treaty or not? Are we safer if the Russians destroy their 40,000 tons of chemical weapons, or not? Do we join with the 74 nations who have ratified this treaty, and the 162 countries that have signed it, or not? Or, does the United States, the most powerful nation in the history of the world, choose, somehow, to go it alone, with all the problems that would entail?

Let us not forget that the United States had a primary role in designing and shaping this treaty, from the time it was first proposed by President Reagan. In recent weeks, the ranking member of the Foreign Relations Committee, working in concert with the Clinton administration, has worked very hard to address the concerns that some Members of this body have. Yesterday we passed 28 declarations to the resolution of ratification that provide even greater protections to U.S. business, and our soldiers, and those who are concerned about constitutional violations.

Shortly, we are going to vote to strike five other conditions that opponents of the treaty say are necessary to address their concerns. I hope that, rather than addressing their concerns, we address the concerns of the United States. Those five conditions should be seen for what they are, treaty killers, designed by those who have no desire to see us participate in this treaty, no matter how many modifications we make.

I want to speak briefly about two of the amendments. The distinguished chairman of the Foreign Relations Committee, Senator HELMS, has been very insistent on them. They are important with respect to this treaty, and also with respect to the issue of antipersonnel landmines. That is a matter of special importance to me.

Proposed condition 29 would, among other things, prohibit the United States from ratifying the treaty until Russia has done so. Proposed condition 30 would prohibit the United States from ratifying the treaty until all States having chemical weapons programs, including China, North Korea, and Iraq, have ratified the treaty. In other words, we would say that China, North Korea, and Iraq would determine the timetable for the United States. Can you imagine that in any other context? We would be screaming on this floor. Of course we would not allow that to happen. These conditions would effectively prevent the United States from ratifying the Chemical Weapons Convention and allow the world's most recalcitrant regimes to decide the rules of international conduct.

To its credit, the administration strongly opposed these amendments. It argues, and I agree, that we should ratify the treaty even before Russia does, and even assuming that rogue States

like Iraq and Libya and North Korea do not. In other words, even if these other nations which could easily produce chemical weapons do not join the treaty, the United States should still do so. Why? Because, by ratifying the treaty we isolate the rogue nations, we make it harder for them to produce and use chemical weapons. And, were they then to do so, if all of us had joined in this convention and they moved outside the convention, they would suffer international condemnation and sanctions.

In support of this argument the administration has turned to some of our most distinguished military and national security leaders. Let me quote what they are saying about linking our ratification to Russia's or to the actions of such nations as China and Iraq.

Gen. Brent Scowcroft and former CIA Director John Deutch say:

[U.S. failure to ratify] gives Russia—which has the world's largest stock of chemical weapons—an easy excuse to further delay its own accession to the CWC.

Former Secretary of State James Baker says:

[S]ome have argued that we should not contribute to the treaty because states like Libya, Iraq and North Korea, which have not signed it, will still be able to continue their efforts to acquire chemical weapons. This is obviously true. But the convention . . . will make it more difficult for these states to do so. . . . It makes no sense to argue that because a few pariah states refuse to join the convention, the United States should line up with them, rather than the rest of the world.

Secretary of Defense William Cohen says:

[T]he CWC will reduce the chemical weapons problem to a few notorious rogues. . . .

And last, but certainly not least, Gen. Norman Schwarzkopf has said:

We don't need chemical weapons to fight our future wars. And frankly, by not ratifying that treaty, we align ourselves with nations like Libya and North Korea, and I'd just as soon not be associated with those thugs in that particular battle.

I agree with General Schwarzkopf. I do not want to have the United States lumped in with Libya and North Korea on the CWC.

By ratifying the treaty, we and the overwhelming majority of nations establish the rules by which the conduct of nations is measured.

Will some nations violate the treaty? Perhaps. But that is no more reason to oppose ratification than it would be to oppose passage of other laws outlawing illegal conduct. We pass laws all the time, criminal laws in this country, and treaties, that say what shall be a crime or a violation of the treaty. We do not withhold passing them because somebody might break that law. It is one of the main reasons we do pass a law, to try to deter unacceptable conduct.

And by isolating the rogue nations, we pressure them to refrain from producing or using chemical weapons. When they tire of being branded outlaws, they may even join in ratifying the treaty and complying with it themselves.

The arguments we hear on the floor from some today in opposition to this also apply to the Nuclear Test Ban Treaty. Not all nuclear powers are signatories to that treaty. But the effect of the treaty is a powerful disincentive on any state, signatory or not, from testing nuclear weapons. We know there are some countries today that have nuclear weapons. They have not signed the Nuclear Test Ban Treaty, but because the major countries have, it limits their own scope of activity.

These treaties were the subject of many, many years of negotiations, negotiations that went nowhere until the United States said that it would renounce the use of chemical weapons, and stop nuclear testing. And once the United States said that, then negotiations were pursued vigorously. The treaties were signed within a few years time.

I commend the administration and other proponents of the CWC for arguing so strongly and effectively in favor of ratification. The President has made the case very, very well, and members of his administration have too.

I would say with some irony though, this is precisely the argument that I have been using on antipersonnel landmines. I could repeat verbatim what the President, the White House staff, the Secretary of Defense, General Schwarzkopf, and former Secretary Baker have said. These arguments apply lock, stock, and barrel to the problem of antipersonnel landmines. We all want Russia and China to be part of a treaty banning antipersonnel landmines. But that is not going to happen any sooner than Iraq is going to sign the chemical weapons treaty.

Their failure should not be used as an excuse for the United States not to sign a treaty banning antipersonnel mines when 100 other nations, including many that have produced and used landmines or have been devastated by their effects, are ready to sign such a treaty.

When the administration on the one hand says we have to go forward with the Chemical Weapons Convention—and I agree—even though some countries, the worst ones have not yet joined, it is unfortunate that the administration then turns around and says we cannot do the same thing with antipersonnel landmines until everybody joins in.

No treaty is universal. In fact some treaties have taken effect with only 20 signatories. But by establishing the international norm, the rogue nations are isolated and pressure builds on them to sign. And that is the only way.

So I ask, Mr. President, why does the administration argue one way on chemical weapons but not follow through on its argument when it comes to antipersonnel landmines? Landmines are just as indiscriminate.

Why, when many more American soldiers and many more innocent civilians, Americans and others, have been killed and horribly maimed by landmines than by chemical weapons?

The reason, of course, is we pushed for the Chemical Weapons Treaty because we have already renounced our own use of chemical weapons, just as we pushed for the Test Ban Treaty because we had renounced our own nuclear tests. But we have not yet renounced our use of antipersonnel landmines.

If we did do so, if the United States were to renounce its use of antipersonnel mines, as so many other nations have done, including many of our NATO allies, I guarantee that the administration would make exactly the same arguments in support of a treaty banning those weapons as it is making in support of the CWC.

They would say that we should not allow Russia, China, and others to decide what the rules of international conduct should be. They would say it makes absolutely no sense that because a few pariah nations refuse to join a landmine ban the United States should line up with them rather than the rest of the world. And they would say that a treaty banning antipersonnel landmines would reduce the landmine problem to a few notorious outlaws and make the world safer for all its people. These are the arguments they made on the Chemical Weapons Convention. They are right. They also would be right in making these same arguments in support of a treaty banning antipersonnel landmines.

In fact, Mr. President, in a letter to the New York Times today by Robert Bell, the Senior Director for Defense Policy and Arms Control, National Security Council, Mr. Bell wrote:

We will be in a much stronger position to make sure other parties to the Chemical Weapons Convention do the same if we are inside, not outside a treaty.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD.

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

[From the New York Times, Apr. 24, 1997]

U.S. WOULD BENEFIT FROM CHEMICAL TREATY

(By Robert G. Bell)

To the Editor:

Re A.M. Rosenthal's "Matter for Character" (column, April 22), on the Chemical Weapons Convention, which the Senate will vote on April 24:

Mr. Rosenthal says that Article 10 of the treaty should be a "deal breaker" because it allegedly would give "terrorist nations" access to defensive technology that would help them evade the defenses of responsible states.

Only countries that have joined the Chemical Weapons Convention, renounced chemical weapons and destroyed their stockpiles

can request defensive assistance—and then only if they are threatened with or under chemical attack. Further, President Clinton has committed to the Senate in a binding condition that the United States will limit our assistance to countries of concern, like Iran or Cuba—should they ratify and comply with the treaty—to emergency medical supplies.

And we will be in a much stronger position to make sure other parties to the Chemical Weapons Convention do the same if we are inside, not outside a treaty that will compel other nations to do what we decided to do years ago: get rid of chemical weapons.

Mr. LEAHY. I agree with Mr. Bell, and I know he worked tirelessly on the CWC. But unfortunately, Mr. Bell, who I am sure is well motivated, has not been willing to apply that same argument to antipersonnel landmines. The Vice President will not apply that argument. Many of the same people who are up here arguing for the Chemical Weapons Convention make one argument for the Chemical Weapons Convention and turn that argument completely around when it comes to antipersonnel landmines even though we face a grave danger, every day, from antipersonnel landmines.

There are 100 million of antipersonnel landmines in the ground in 68 countries, where every few minutes somebody is maimed or killed by them. This is, in many ways, a greater danger to innocent people than chemical weapons. And I wish the administration, I wish Mr. Bell, I wish the Vice President, I wish others who have not made their same arguments on antipersonnel landmines that they do on chemical weapons will reconsider. Because, like chemical weapons, antipersonnel landmines are weapons we do not need.

What we do need are defenses against them, because, like chemical weapons, they are easy and cheap to produce. They pose a grave threat to our troops. They are the Saturday night specials of civil wars. They kill or maim a man, woman or child every 22 minutes every day of the year. They are aptly called weapons of mass destruction in slow motion. In fact, they are the only weapon where the victim pulls the trigger. They are a weapon where one Cambodian told me, in their country they cleared their landmines with an arm and a leg at a time.

I am proud to support the President, the Vice President, and the rest of the administration on the Chemical Weapons Convention. But I hope that they will soon take the same position on antipersonnel landmines and say, let us bring together the like-minded states—and there are many who are ready to join in a treaty to ban them, join with them, and then put the pressure on the other countries like Russia and China and so on who will take longer to do it.

If American children were being torn to pieces every day on their way to school, or while playing in their backyards, we would have made it a crime long ago. It is an outrage that should shock the conscience of every one of us.

So I am going to vote to advise and consent to the Chemical Weapons Convention so the President can ratify it and to exert the leadership necessary to help rid the world of the scourge of chemical weapons. I look forward to ratification and to the implementation legislation to make the treaty a reality.

And I will also continue to work to convince the administration this is the kind of leadership we need if we are to rid the world of antipersonnel landmines—a scourge every bit as horrifying as chemical weapons, frankly, Mr. President, a scourge that is killing more people today and tomorrow and last year and next year, and on and on, than chemical weapons. We should be leading the world's nations to end the destruction and death caused each day by landmines, not sitting on the sidelines.

I will conclude, Mr. President, by quoting from a letter to President Clinton signed by 15 of this country's most distinguished military officers, including Gen. Norman Schwarzkopf; former Supreme Allied Commander John Galvin; former Chairman, Joint Chiefs of Staff, David Jones, and others. They said:

We view such a ban [on antipersonnel landmines] as not only humane, but also militarily responsible.

I quote further:

The rationale for opposing antipersonnel landmines is that they are in a category similar to poison gas. . . . they are insidious in that their indiscriminate effects . . . cause casualties among innocent people. . . .

They said further:

Given the wide range of weaponry available to military forces today, antipersonnel landmines are not essential. Thus, banning them would not undermine the military effectiveness or safety of our forces, nor those of other nations.

Mr. President, every single argument the administration has made in favor of us joining the Chemical Weapons Convention could be made to ask us to go to Ottawa to sign a treaty banning antipersonnel landmines. Because by doing that, we would have 90 percent of the nations of this world pressuring the remaining 10 percent, and that pressure would be enormous.

I reserve the balance—

Mr. President, how much time is remaining to the Senator from Vermont?

The PRESIDING OFFICER. Twenty-seven minutes.

Mr. DODD. May I inquire, Mr. President, from the Senator from Vermont, there are a couple of us here who have requested some time. In fact, I know my colleague from California has made a similar request. My colleague from Maryland also has. I ask if our colleague from Vermont would be willing to yield us some time off his time. We could make some remarks and maybe expedite this process.

Mr. LEAHY. Mr. President, I intend to be speaking again further on this. I have 27 minutes remaining.

The PRESIDING OFFICER. There is a correction of the time. You actually have 32 minutes left.

Mr. DODD. I needed 10 minutes.

Mrs. BOXER. If I could have 7 minutes, I would ask the Senator.

Mr. LEAHY. I will yield 10 minutes to the Senator from Connecticut, 7 minutes to the Senator from California, and withhold the balance of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much.

I appreciate my friend from Connecticut allowing me to proceed. I may not use the full 7 minutes. I will try to be very concise.

Mr. President, I rise in strong support for ratification of the Chemical Weapons Convention. And I base my support on four main facts.

First, the Chemical Weapons Convention is in the national security interests of the United States of America because it reduces the likelihood that American soldiers or civilians will ever face a chemical weapons attack.

We should not lose sight of why this is so important. The effects of chemical weapons are so barbaric, so devastating, that we must do all we can to ensure that they are never used again.

Chemical weapons are among the most horrible devices ever conceived. If they do not kill their victims instantly, chemical weapons invade the respiratory system making it unbearably painful to breathe. When chemical weapons were used in Iraq by Saddam Hussein, against the Kurds, eyewitnesses reported that the pain was so great that many victims submerged themselves in nearby rivers to escape the spreading gas.

Mr. President, we are a civilized Nation here. We must do all we can to prevent this torture. And approving the CWC is a major step. I know many of my colleagues had questions. I know that Senator BIDEN and others have worked tirelessly to address those problems. And I feel what we will have before us, if we defeat the killer amendments, the five killer amendments, will lead us to a far more civilized world.

All signatory nations of the CWC agree never again to manufacture chemical weapons, nor to use them in war. They agree to destroy all existing stockpiles of chemical weapons. They agree to allow inspections of chemical plants to verify that no weapons are being manufactured illegally.

To those who say there are some nations who may not sign on, we know that is so. I will say this: If we sign this treaty and we are a party to it, it will be far more difficult for nonsignatory nations to develop chemical weapons. This is the case because rogue

states will find it far more difficult to import the raw materials and manufacturing equipment they need to develop chemical weapons.

Another reason, the second reason: If the United States fails to ratify the convention, it will still go into effect, but it will be weaker. It will be weaker because many nations will stay off this treaty and, therefore, there will be fewer who are actually bound by it. Also, our inspectors will not be on the team to go and search for possible CWC violations. Our inspectors are among the best in the world, and they will give us confidence as to the true state of chemical weapons production. Why would we want to stay off a treaty that will go forward that will not have our inspectors on those teams?

Third, failure to ratify will hurt American business. The CWC imposes trade sanctions against nonsignatory nations that limit the ability of their chemical industries to export many of their products overseas. It could cost our companies hundreds of millions of dollars every year. Now, opponents say that the CWC would impose additional regulations on an already heavily regulated industry, our chemical industry. They argue the convention will result in vast new compliance costs. But when you take the compliance costs of $250,000 to $2 million for the entire industry, that is a small price to pay compared to the hundreds of millions of dollars that would be lost if sanctions were imposed.

The vast majority of the chemical industries strongly supports the CWC. U.S. chemical companies advised the Reagan and Bush administrations throughout the original CWC negotiations. Leading U.S. chemical trade associations support the CWC. They know the costs of compliance are small and the risks to industry are great if we fail to ratify.

Fourth, failure to ratify will undermine our credibility, America's credibility, in the world. Imagine a treaty that was brought forward by Ronald Reagan, continued toward the goal line by George Bush, and now a Democrat President, following a legacy of those two Republican Presidents, wanting to take this over the goal line, and suddenly we are going to back off. It seems to me our credibility is absolutely at stake here. I believe we should not back away from this treaty. We should pass it and defeat the killer amendments.

Mr. President, to those who raise all sorts of flags about this treaty, we should understand this: We could always exercise our right to withdraw from the convention on 90 days' notice. This right to withdraw is guaranteed to all signatory nations by article XVI of the CWC.

Mr. President, in closing, I thank the Senator from Vermont for his generosity, and my friend from Connecticut. I join with them. The CWC is in our national interests. It will enhance national security, protect American jobs; it will help maintain our position of global leadership; and, my friends, most important of all, it really will protect the world from the most horrible, horrible weapons of our time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President. I thank my colleague from Vermont for his generosity in yielding time.

Mr. President, yesterday I included some extensive remarks in the RECORD regarding the overall treaty. I let those remarks speak for themselves today.

First, I begin by commending our colleagues, the chairman of the Foreign Relations Committee, Senator HELMS; the ranking Democrat on the committee, Senator BIDEN; the majority leader, Senator LOTT; and the minority leader, Senator DASCHLE, for working out the arrangements of this treaty so we can come up for a vote prior to the April 29 deadline.

Let me also say, Mr. President, while there are disagreements—and there will be over the ultimate decision of whether or not to support the treaty—I think the debate and the process we have gone through has been healthy. I suspect those who are deeply involved in the workings of this treaty have improved it. So I commend all of our colleagues for the work they have done on this particular effort. I think it is how the Senate of the United States ought to conduct its business when it comes to matters dealing with obligations to commit our country for many years to come. It was no mistake that our Founding Fathers required supermajorities to commit this Nation to international arrangements, and the fact that we require supermajorities for treaties, I think, is worthwhile.

Mr. President, I want to focus my attention, if I can, on the first amendment that will be raised here. The amendment will strike a condition in the treaty that has been included by Senator HELMS. I am going to oppose condition 30, which I believe will be the first vote we will cast. This is the rogue states condition. I will explain what that means and express why I think it ought to be struck from this treaty in the brief time I have available to me.

Mr. President, we must ask only one question today. We must ask: Is this treaty in the best interests of our country? That is our obligation as Members of the U.S. Senate. That is the question which we must address. This condition 30, the rogue states condition, I think, is not in the best interests of the United States. I think it would prohibit the United States from ratifying the Chemical Weapons Convention. It would prohibit us, of course, from ratifying the convention until nations such as North Korea, Libya, Syria and Iraq ratify the treaty.

More than any of the other conditions we will vote on, Mr. President, later today, this condition would delay indefinitely, in my view, the ratification of this treaty. The so-called rogue states condition would force the United States of America to wait until all of the pariah states of the world ratify before we, ourselves, would accept the treaty that we, ourselves negotiated.

There is a reason, Mr. President, that we use the words rogue and pariah to describe these countries such as North Korea, Libya, Iran. These are the nations that are the loners in the international arena and who routinely disregard international opinion in pursuing their own interests. These rogue nations, these renegade nations, have never given weight to world opinion. There is no reason to expect that they will have a change of heart any time soon. Waiting for these rogue states to accept this treaty is literally like waiting for Godot.

Let it be known, then, that a vote against striking this condition is, in my view, without any question whatever, a vote to prohibit U.S. participation in the Chemical Weapons Convention. If we include, Mr. President, this condition 30, the rogue states condition, we might as well include a condition that requires ratification by every single nation on Earth before we ratify, for these are, indeed, the very last nations that would ever accept this treaty. That is because these nations, these rogue nations, fear this treaty and the international determination that it demonstrates.

Our country, Mr. President, has decided unilaterally to destroy its aging chemical weapons stockpile by the year 2004. That is a decision we have already made. Regardless of what other nations do, we have decided to take ourselves out of the chemical weapons business unilaterally, and yet the assumption under this faulty condition is that we must not disarm until other nations with chemical weapons or chemical weapons capability disarm as well.

We must be clear, Mr. President, that having agreed, ourselves, to destroy our chemical weapons, this treaty deals with whether or not we can act with the backing of the world to bring other nations to do the same. As Secretary Albright has said very simply, "This treaty is about other nations' chemical weapons, not our own." We will destroy, Mr. President, our weapons because they are no longer needed. So this idea that we must wait for other nations to ratify this treaty, I believe, is fatally flawed.

This convention would establish an international norm that will allow us to pressure rogue states who decide they would rather keep and enhance their chemical weapons stockpile. On

the basis of what we now know about the Persian Gulf war, that many thousands of this Nation's troops may have been exposed to chemical agents, we must not pass up the chance, in my view, to establish a norm that would have made it far more difficult for Iraq to have the weapons in the first place. Remember, Mr. President, there is no law that bars a nation from building, stockpiling, upgrading, or transferring their chemical weapons. In fact, when Iraq used chemical weapons against the Kurds, as heinous an act as it was, the Iraqis did not even violate the Geneva Protocol because they did not use the agents in an international conflict.

What we need today, Mr. President, is a new agreement. This convention goes much farther in establishing a basis for international action against chemical weapons themselves.

I further object, Mr. President, to this rogue states condition because we should not allow our foreign policy decisions to be dictated by rogue states—by a Libya, a North Korea, and an Iraq. Let us remember that the negotiating teams of President Reagan and President Bush anticipated the likelihood that rogue nations would not accept this treaty. That is why President Reagan's and President Bush's teams included sanctions, when they wrote this treaty, against nations that remained outside of this treaty. This condition 30, the rogue states condition, insults those negotiating teams that worked so hard and with such great foresight on this very treaty. It assumes that they were so shortsighted that they did not anticipate that rogue nations would oppose it. That is not the case. The truth, again, is that the negotiators knew very well that these rogue nations would look upon this treaty as something that they would have to oppose, so we and other nations demanded that these renegade nations be penalized.

How ironic it is, Mr. President, that unless the United States strikes this rogue states condition, we now will be penalized ourselves. Germany, I point out, has already indicated its intent to impose the sanctions against nonparticipants that this treaty mandates.

Let us be aware, Mr. President, we live in a new world. Scholars use the words "multipolar" and "post-nationalist" to describe today's world. Other nations are increasingly capable of taking action without our leadership, regretfully I might add. Those who think this treaty will not go into effect without our ratification are thinking of an older world, of the days when the United States declined to participate in the League of Nations and it failed as a result. Mr. President, that was over three-quarters of a century ago. Let me assure my colleagues that to the extent we isolate ourselves today, our country will pay a price tomorrow.

The question before us this hour with this condition that will come up shortly, is, will we allow a group of rogue, renegade nations to disengage the United States from the international community on this issue of chemical weapons?

Mr. President, when this Nation allows itself to be held back by the shortsightedness, the evil of other nations, we make a huge mistake indeed. President Reagan did not wait for other nations when he took the first step forward on the matter of chemical weapons by declaring that the United States would unilaterally destroy its chemical weapons stockpile. President Reagan did not wait for other nations when he initiated negotiations to ban chemical weapons from this Earth. President Bush did not wait for other nations to sign this treaty. Presidents Reagan and Bush did not follow others in making those critical decisions. We led, as great nations must, and others have fallen in behind us. Our Nation set the example. Now it is time for us to set the example once again.

Finally, Mr. President, we must keep in mind that opponents of this treaty argue both sides of the issue. On the one hand, they argue that rogue states will reap great benefits from the technology and intelligence available to them as participants in this treaty.

That argument assumes that these nations can't wait to participate in this treaty. Yet, on the other hand, this condition that we will vote on assumes that rogue states will avoid participating in this treaty.

If parties to this treaty pick up such a technological advantage, why aren't these rogue nations crawling over themselves to ratify the treaty? They should be the first in line if that is the case. Why then do we need this condition?

The truth is, Mr. President, that rogue nations fear this convention and this treaty. Waiting for them to ratify is absurd. No one expects them to ratify, so we should at least become a party to a treaty that will severely restrict the flow of chemicals to those nations, rather than assisting them by a reluctance to move forward.

Mr. President, I urge the adoption of the amendment to strike, and I urge the adoption of the treaty itself.

I yield the floor.

The PRESIDING OFFICER. The chair recognizes the Senator from New Mexico and asks, who yields time?

Mr. BIDEN. Mr. President, I yield 7 minutes to my friend from New Mexico.

Mr. DOMENICI. Mr. President, first let me say that I believe the Senate has done itself proud with reference to the debate and participation of our Members in this series of debates and discussions regarding this treaty. When you add to it the closed session we had today, I think every Senator has had an ample opportunity to thoroughly understand this situation. I believe when the day ends and you have heard all of that, the overwhelming majority of the U.S. Senators are going to vote to ratify this treaty. I believe they are going to do that not because it is perfect, but because the world is better off and we are better off if we have this treaty than if we don't.

Having said that, while the world has set about to perfect chemical weapons, there is nothing new about this. In fact, I can remember, as a very small boy, a great uncle who was a totally disabled American veteran. He was an Italian immigrant taken into the First World War. He served in the U.S. Army, and he was the victim of mustard gas. In that war, the Germans used mustard gas, a chemical weapon on the front, on the lines. Many Americans received toxic doses. In fact, this great uncle of mine, as I indicated, collected veteran benefits for his entire life for a total disability because of the mustard gas being used in World War I.

Science has perfected weapons beyond mustard gas, and the world lives under three scourges today. One is the possible proliferation of nuclear weapons; another is the proliferation of chemical weapons, and the third is the proliferation of biological weapons. Now, we have attempted in the past, starting with President Eisenhower, to do something about the proliferation of nuclear weapons. While we haven't succeeded in totality, we have clearly succeeded beyond anything men of that day thought. It was not perfect. There were those who wanted to argue about it because it was not perfect, but we could not have ended an entire era without Atoms for Peace and everything that came with it. Having said that, let me suggest that we probably won't find a way to enter into an international treaty on biological weapons. They are principally weapons of terrorists.

Let me talk about this treaty and tell the Senate in my own way why I am for it. First of all, I think it is an imperative. Even though it was said before, I say this one more time. Frankly, the reason this treaty exists is because we are trying—the United States of America—to set in motion in the world a security and arms control treaty, and the overreaching question is: Will we be better off or worse off if we commit to its terms?

Now, this is not a treaty that is going to prevent terrorists from using chemicals as weapons if they see fit. This is more of a treaty that addresses itself to the military use of these kinds of drastic weapons. Now, it is not perfect, but let me suggest the second principle that everybody should know, including those Americans who worry about this treaty: America has already committed to totally destroying all of its chemical weapons. President Ronald Reagan, many years ago, said, let's get rid of one kind of weapon, leaving

only one left over. President Bush also agreed to get rid of them. America is now on a path to get rid of them in 10 years. All of this discussion has not changed that. So when we talk about the dangers to America, it should be understood that we have already decided that on our own. We want to get rid of them either because we think that is in our best interest—I would assume that is the case—and/or we think it is better for the world that we not have any because we think the world may follow our example.

Having said that, it seems to me that, with the United States having agreed to destroy all of their weapons of this type, we ought to look at the treaty and ask, is it apt to work its will on the rest of the world quicker and better than if we didn't have it? In everything I hear, everything I have read, in discussions with scientists that worked on it, including some of the top scientists who negotiated this agreement, they have all said that, even with its defects, the CWC is more apt than not to bring the rest of the world to the same conclusion that America has come to. They support that we might get to a point where there are none of these weapons around sooner rather than later if we have this treaty, as compared with no treaty.

There are all kinds of nuances that one can talk about as you look at something as complicated as this. But I think, fundamentally, the issue is: what is best for the United States after we have committed to destroy our chemical weapons, is it better that we have the treaty or not? From everything I can tell, the 28 conditions that have been agreed upon are good clarifying language and many contain protections to our private property rights that we may have assumed early on would not be violated. But then we got concerned with the CWC and properly so. Now, there is going to be some judicial process to be required before inspections can occur. I believe we now will protect private facilities as well as public facilities like our national laboratories through requirements for search warrants as part of the language that Senator HELMS agreed on with our staff.

In summary, it seems to this Senator that if we join with other countries and begin moving to implement this treaty, that we are better off with it than without it. Will it be difficult to get everyone in the world to agree with our position—the civil position of moral, decent leaders? I am not sure. But the question is, will it be any easier, or are we apt to succeed better, without the treaty? I am convinced that such is not the case.

Now, Mr. President, there are so many Senators to thank, but I say to JON KYL, whose position I don't agree with, that I don't believe anybody has done a better job on something as complicated as this since I have been in the Senate, which is now 25 years. I compliment him for that.

I yield the floor.

Mr. BIDEN. Mr. President, I yield 5 minutes to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I thank the able Senator from Delaware, and I commend him for his extraordinary leadership with respect to the Chemical Weapons Convention. I know personally of the time and effort he has devoted to this cause. We are all in his debt.

Mr. President, it is now less than a week before a landmark treaty—one which the United States led the world in negotiating—goes into effect internationally. The Chemical Weapons Convention, signed by President Bush on January 13, 1993, has now been ratified by 74 countries. The eyes of the world are upon the United States as we decide whether or not to join them.

It would be a major mistake if this treaty were to go into effect without us. Worse yet, if we fail to ratify, we could be jeopardizing our best chance to eliminate the chemical weapons that some day would be used against us.

This is a treaty that was advanced, negotiated, and signed by Republican Presidents, with the encouragement, in 1989, of some 75 U.S. Senators. What a mistake it would be if the Senate were to forfeit this opportunity to protect American security, promote American interests and preserve American leadership.

If we fail to ratify the CWC, we will have done just that. If the Senate does not approve this historic treaty, our economic and security interests will suffer. Despite widespread and continuing bipartisan support for this treaty, despite support from some of our Nation's outstanding military leaders—such as General Shalikashvili and former Chairmen of the Joint Chiefs of Staff Colin Powell, Admiral Crowe, General Vessey, and General Jones—some of my colleagues argue that this convention does not serve our security interests.

The Chemical Weapons Convention is an unprecedented international agreement designed to eliminate an entire class of weapons of mass destruction. Unlike earlier protocols that prohibit only the use of chemical weapons, this convention aims at stopping their production, transfer, and storage by providing incentives for participation, verification of compliance, and penalties for violation. The United States is the only major industrialized country not to have ratified it yet. Our participation is critical to its ultimate success.

This convention will not make the threat of chemical weapons automatically disappear from the face of the Earth. But it will constrain their proliferation and make it harder for rogue regimes and terrorists to gain access to them. By increasing the legal, moral, and financial costs of acquiring chemical weapons, it will deter covert chemical weapons programs and increase the likelihood they will be discovered.

There are three major reasons why this treaty will serve American interests and why a failure to ratify it could have severe repercussions.

First, the convention requires other nations to do something we already plan to do—destroy chemical arsenals. Under a law first signed by President Reagan, the United States will eliminate our current stockpile of chemical weapons by the year 2004, independent of what happens in this treaty. Our own military thinks that is a wise thing to do, even on a unilateral basis. The convention will simply ensure that others do the same.

In other words, this is not a debate over eliminating our own chemical weapons. We are already programmed to do so. This is a question of whether we can establish a regime that will require other countries to destroy their chemical weapons and stop building new ones. That is why Admiral Zumwalt had stated, militarily, this treaty will make us stronger.

It is not enough, however, to ask other nations to ratify the treaty. We must do so ourselves. Today, we have an opportunity to lead the world in abolishing these terrible weapons, rather than providing others with an excuse not to do so. If we do not adopt this treaty, or if we add crippling amendments, we will have single-handedly undermined the hope of ridding the world of this deadly scourge and of reducing the threat to our own citizens.

The second major reason to ratify this treaty is that it will provide us with better information about what other countries are doing in the realm of chemical weapons. We know the verification regime is not perfect. The verification regime is never perfect in any treaty. There may be states that try to cheat on this agreement and others that refuse to sign it. But if we are party to the treaty, we will have an opportunity to investigate and sanction potential violations. We will take part in the organization established to monitor implementation, and we will help enforce its rules and procedures. As former CIA Director James Woolsey noted, "We will know more about the state of chemical warfare preparations in the world with the treaty than we would know without it."

Moreover, once we ratify the treaty we will be in a better position to do something about noncompliance. The CWC throws the force of world public opinion behind the identification and exposure of violators. Any violations that are discovered will be made widely

known and receive universal condemnation. We will be able to punish violators through multilateral action, rather than going it alone, or trying to convince the world that our suspicions are correct without revealing our intelligence sources. As former Secretary of State Christopher explained, "By ratifying the Convention, we will add the force and weight of the entire international community to our efforts."

The third reason we must ratify this treaty is that a failure to do so will put U.S. chemical manufacturers at a serious competitive disadvantage. Once the CWC enters into force—which will happen next Tuesday, with or without U.S. participation—chemical manufacturers in countries that have not ratified will find themselves faced with international economic sanctions. These companies will be required to obtain end-user certificates for the sale of certain chemicals abroad, and after 3 years, they will not be able to export those chemicals at all. The United States will be treated on a par with rogue states, who will no longer be trusted to conduct normal, commercial trade in chemicals.

These dismal scenarios were certainly on the minds of the chief executives of 53 of the Nation's largest chemical firms last August, when they expressed their concern in a joint statement, warning: "Our industry's status as the world's preferred supplier of chemical products may be jeopardized if the United States does not ratify the Convention. If the Senate does not vote in favor of the CWC, we stand to lose hundreds of millions of dollars in overseas sales, putting at risk thousands of good-paying American jobs." American chemical companies have indicated a willingness to comply with inspections under the treaty because they are not conducting illegal activity, and because they helped to design the treaty's inspection regime so that it would not threaten legitimate business secrets or compromise proprietary information.

Earlier this year, President Bush reaffirmed his support for ratification, telling reporters the treaty should transcend partisanship. "I think it is vitally important for the United States to be out front, not to be dragged, kicking, and screaming to the finish line on that question. We do not need chemical weapons, and we ought to get out front and make clear that we are opposed to others having them."

The CWC has been before the Senate for consideration for nearly 4 years now, providing ample opportunity for examination. Last year, after exhaustive hearings and review, it was reported favorably by the Senate Foreign Relations Committee, but not brought to a vote on the floor of the Senate.

Over the past few weeks a new series of hearings has been held, in open and in closed session, and all perspectives have been thoroughly aired. The administration has worked in good faith to negotiate a new resolution of ratification that addresses the earlier concerns and more, including 28 agreed conditions, declarations, statements, and understandings. The remaining five conditions that have been proposed will undercut and place in jeopardy the effectiveness of this treaty, and I urge my colleagues to reject them.

The conditions to which the administration has already agreed will resolve every legitimate concern that has been raised. I would urge my colleagues not to vote for pending amendments that would require renegotiation, delay, or abrogation of the CWC. If we don't take this opportunity to begin abolishing these terrible weapons, we will rue the day and have only ourselves to blame.

Mrs. FEINSTEIN. Mr. President, I rise today to express my strong support for the Chemical Weapons Convention. I believe it is very much in our national interests to ratify this treaty, after we strike five conditions in the resolution of ratification.

Let me first express my respect and appreciation for the distinguished ranking member of the Foreign Relations Committee, Senator BIDEN. He and his staff have really done the heavy lifting in getting this treaty to the floor, including many long hours of negotiations on the package of 28 agreed conditions.

I also want to express my respect for the opponents of this treaty, including the distinguished chairman of the Foreign Relations Committee and the Senator from Arizona, Senator KYL. I have worked well with Senator KYL on many issues, including, at the moment, our strong effort to pass a Victims' Rights Amendment to the Constitution.

I know that in this debate these Senators are motivated by their genuine and deeply felt concern for America's national security. However, I must disagree with the view that we would be better off without this treaty, or by passing a resolution of ratification that essentially renders the treaty meaningless.

Mr. President, the threat of chemical weapons falling into the hands of terrorists, or being used as a weapon of war by a rogue state, has increased dramatically in recent years.

One need only reflect on the dangers faced by our military by Iraq's incipient chemical weapons program during the gulf war, or the tragedies our Nation has suffered with the bombing of the World Trade Center, the Federal building in Oklahoma City, and the Olympic Park in Atlanta, to fully appreciate the dangers posed by the proliferation of chemical weapons. In each of these cases, the tragedy and loss of life could have been magnified significantly had chemical weapons been used.

The people of Japan know this firsthand. The deadly sarin gas attack carried out in the Tokyo subway system by the Aum Shunrikio cult was testimony to the power of even a relatively small amount of chemical weapons.

Chemical weapons are among the most barbaric of mankind's inventions. They are so awful, that the United States, by act of Congress, has decided to eliminate our own stocks of these weapons by 2004. They are designed to kill and incapacitate by causing such effects as skin blistering, blindness, lung damage, choking, nervous system disruption, paralysis, or oxygen starvation. Because of the ease of their dispersal over a wide area, chemical weapons are especially useful for targeting civilian populations.

The Chemical Weapons Convention is the most far-reaching attempt ever by the international community to control the spread of chemical weapons. It bans for the first time the development, production, and possession of chemical weapons and reinforces the international norm against their use. Since we are destroying our own chemical weapons, it only makes sense that we should want other nations to do so as well.

The convention requires all signatory states to declare and destroy any chemical weapons and the facilities used to produce them. It requires member states to submit annual reports on the production and use of certain sensitive chemicals. This information, combined with our own intelligence resources, will significantly improve our ability to monitor and prevent illegal transfers and uses of such chemicals.

Once the CWC takes effect, it will make it much harder and more costly for proliferators and terrorists to acquire chemical weapons. An intrusive verification system will be set up to detect violations. Sanctions will be imposed against nations that refuse to participate, making it more difficult for them to acquire precursor chemicals for poison gas and easier to monitor their efforts to do so.

The intelligence-sharing and global verification network that will result from this treaty will increase the chances that terrorist attacks involving chemical weapons can be prevented before they ever occur—a net gain in the security of our troops and our citizens.

Now, a number of very serious concerns have been raised about the CWC. I myself have shared some of these concerns. I will not speak to every criticism of the treaty, but I want to address some of these concerns now, because I believe very solid answers have been provided to virtually all of them.

Verification: Critics of the CWC have complained that it is not verifiable, and that it will be easy for nations who sign up to the treaty to cheat without getting caught.

We must start with the proposition that no arms control agreement is 100-

percent verifiable. But with the CWC, we will know far more about who is trying to develop chemical weapons, where, and how than we would without the treaty. That is why the intelligence community has consistently testified that, while the treaty is not completely verifiable, they regard it as a highly desirable tool that will enhance our knowledge of chemical weapons programs and our ability to stop them.

The CWC's verification regime requires routine inspections of all declared facilities working with significant amounts of chemicals listed by the treaty. In addition, any site, declared or not, may be subject to short-notice challenge inspections if there are suspicions that it is being used to produce or store banned chemicals.

The CWC also establishes significant trade restrictions on precursor chemicals. These restrictions will make it more difficult for nations who are not parties to the treaty to acquire these chemicals, and will provide us with much more information than we currently have about who is seeking to import such chemicals, and in what amounts.

So the concern about verification, while valid, I believe has been more than adequately addressed. We must go into this treaty with our eyes open, aware that it will not detect every violation. But why would we deprive ourselves of the extremely useful tools and information this treaty would provide on the grounds that they are not foolproof? It would be incredibly shortsighted to do so.

Sharing Defense Technologies: During one of the hearings in the Senate Foreign Relations Committee earlier this month, the concern was raised that Article X of the CWC would require the United States to share advanced chemical defense technologies with rogue nations like Iran, who may sign and ratify the treaty. If indeed the treaty required that, there would be significant grounds for concern. But I believe the concern is overstated.

In an April 22 letter to me, National Security Adviser Sandy Berger makes it very clear that Article X of the CWC would impose no obligation on the United States to assist Iran with its chemical weapons defense capabilities.

I ask unanimous consent that Mr. Berger's letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. Berger makes clear that paragraph 7 of Article X, which spells out the obligations of States Parties to assist others threatened by chemical weapons, would require the United States to provide nothing more than medical antidotes and treatments to any state we deemed unreliable. We have the option to provide more advanced assistance to those nations we trust, but no obligation.

The administration is so comfortable with this reading of the treaty, that, in their negotiations with Senator HELMS and with the Majority Leader's task force on the CWC, they have agreed to a binding condition (number 15) that would ensure that the United States will not provide any assistance other than medical assistance to any rogue nation that becomes a party to the treaty.

Another concern about Article X is that paragraph 3, which calls for parties to "facilitate . . . the fullest possible exchange" of information and technology on protection against chemical weapons, would require the United States to share such equipment with rogue nations who sign and ratify the treaty.

The administration has made clear that the use of the words "facilitate" and "possible" in this paragraph mean that we will determine whether any specific exchange is appropriate, and we will not pursue those we deem inappropriate. In making these decisions, we will do nothing to undermine our national export controls.

With these assertions in hand, I am satisfied that the United States will in no way be obligated to provide chemical weapons technology to any nation we deem to be untrustworthy.

Some have also raised the concern that Article X might induce other, less conscientious nations, to supply rogue states with defense technologies. But there is nothing that prevents those sales from taking place today, with no CWC in effect.

With the CWC, the countries who make exchanges allowed in Article X are legally bound by the treaty's overriding principle, stated in Article I, that they can do nothing to "assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention."

In addition, the CWC would provide us with far more ability to scrutinize any exchanges than we have today. The result is a net increase, not decrease, in our knowledge of defense exchanges with rogue nations, and our ability to address any compliance concerns that may arise from these exchanges.

Cooperation on Chemical Technology: Another concern that has been raised involves Article XI. Some have suggested that Article XI, which deals with cooperation in chemical activities not prohibited by the treaty, would require the United States to provide other nations with access to our dual-use technologies and manufacturing secrets. Here again, the concern is unwarranted.

Article XI does aim to ensure that parties to the treaty can conduct legitimate chemical commerce, which is reasonable. But in his April 22 letter, Mr. Berger explains that this article does not require the United States, or any U.S. company, to provide any confidential business information to any foreign party.

As to the concern that Article XI will undercut export controls, indeed, the reverse is true. Mr. Berger makes clear that the all U.S. export controls now in effect are fully consistent with the CWC. In addition, our allies in the Australia Group, all 28 of them, have pledged to maintain all existing multilateral export controls, which they agree are fully consistent with the CWC.

Here again, the problem identified by critics of the CWC would actually be worse without the treaty. The CWC will allow us to better monitor chemical commerce that occurs today without our knowledge. It will also provide the basis for further multilateral efforts to control exports, above and beyond our own existing export controls and those of the Australia Group.

To address the concerns raised about Article XI, the Administration has agreed to a binding condition (number 7) that the President must certify now and on an annual basis that the Australia Group is continuing to effectively control chemical exports and remains a viable mechanism for doing so.

According to this condition, the President must also certify that nothing in the CWC obligates the United States to weaken our own export controls, and that each member of the Australia Group remains committed to maintaining current export controls.

With this condition added to the resolution of ratification, I believe concerns about Article XI can be laid aside.

In fact, the negotiations between the Administration and Senator BIDEN on the one hand, and Senator HELMS and the Lott task force on the other, have been remarkably successful in addressing the concerns that have been raised about the treaty.

In all, 28 conditions have been agreed to in these negotiations, on subjects ranging from verification and Articles X and XI, to Congressional prerogatives in providing funding for the OPCW; the establishment of an inspector general at the OPCW; safeguards on intelligence sharing; the Senate's role in reviewing future treaty amendments; constitutional protections in the inspection of U.S. facilities; our armed forces' continued ability to use non-lethal riot control agents, such as tear gas; and maintaining robust U.S. chemical defense capabilities.

With all of these conditions agreed to, there are only five areas remaining in dispute. One would think we were near the point of a virtually unanimous vote to ratify the CWC.

And yet, we still hear charges that the administration is "stonewalling." That is simply not the case. Far from

stonewalling, the administration has worked very hard to address the Senate's concerns. But it appears that some people simply do not to want to take yes for an answer.

And so, we have five conditions in this resolution of ratification which the Administration has identified as "killer" conditions. These conditions would make our ratification of this treaty meaningless, because they would either gut central provisions of the treaty, or set up unachievable goals that must be met for us to deposit our instruments of ratification. They should all be defeated.

Let me briefly address each of these killer conditions:

Condition 29 would prohibit the United States from ratifying the CWC until Russia ratifies it and takes a series of other actions to comply with past agreements.

Besides holding United States foreign policy hostage to a group of hardliners in the Russian Duma, this condition ignores the fact that the CWC provides precisely the tools that would be helpful in detecting Russian violations of this and past treaties. It also gives Russia an easy excuse to delay ratification itself. On the grounds of self-interest, this condition shoots ourselves in the foot.

Condition 30 would prohibit the United States from ratifying the CWC until rogue states such as North Korea, Libya, Syria, Iran, and Iraq have ratified it. By accepting this treaty, we allow these rogue regimes to set the standards of international conduct. It is the equivalent of saying that we should not outlaw drug smuggling because some people will still smuggle drugs.

By ratifying the CWC, the United States will make it easier to forge international coalitions aimed at eliminating the chemical weapons programs of these regimes, even through military force when necessary. It will also set a standard for those nations to meet if and when their current regimes are replaced by more responsible ones.

Condition 31 requires the United States to reject all CWC inspectors from countries like Iran and China. This condition is unnecessarily rigid. It would prevent us from allowing suspect states from seeing for themselves that we are not violating the treaty. It would also certainly result in American inspectors being excluded from inspections in these countries.

A better approach would be to strike this language and enact implementing legislation that would allow Congress a role in determining which inspectors should be barred, which the CWC allows the United States to do on a case-by-case basis.

Condition 32 would prohibit the United States from ratifying the CWC until Article X is eliminated and Article XI is amended. This is completely unrealistic and completely unnecessary. Articles X and XI were included to reassure countries who signed the treaty that they would not be prevented from developing chemical weapons defenses or engaging in legitimate chemical commerce.

None of the 160 nations who have signed or 74 nations that have ratified the treaty will agree to renegotiate these provisions at the eleventh hour. It will simply result in our exclusion from the CWC—which is clearly the intent.

As Gen. Brent Scowcroft, National Security Adviser to President Bush, testified before the Foreign Relations Committee on April 9, 1997: "Starting over . . . is pure fantasy. If we reject this treaty, we will incur the bitterness of all our friends and allies who followed us for 10 years in putting this thing together. . . The idea that we can lead out again down a different path I think is just not in the cards. We have got to deal with the situation we face now, not an ideal one out in the future."

The concerns raised about Articles X and XI—which I shared—have been more than adequately addressed by the agreed conditions. This is what I mean about not wanting to take yes for an answer.

Condition 33 would prevent the U.S. from ratifying the treaty unless the President can certify with "high confidence" that we would be able to detect the production or storage of a single metric ton of chemical agent.

This is an absurdly high standard. The intelligence community has consistently said it could detect "militarily significant" cheating, but the production of one ton of agent does not qualify.

But the tools created by the CWC will only enhance our abilities to detect these violations. It would be foolish to kill the treaty with a condition like this that makes the perfect the enemy of the good. This condition is not about verification—it is about killing the treaty.

Tomorrow, each of these five amendments will be subject to a motion to strike. Failing to strike them would be tantamount to killing the treaty. I urge my colleagues to vote for each motion to strike. Those who do not are essentially voting against ratification of the entire CWC.

Mr. President, I think this debate really comes down to whether or not one supports international arms control agreements. Many of the criticisms of the CWC—such as that it would lull us to sleep, or that it is not verifiable—were levied against all previous successful arms control treaties, such as the Nuclear Non-Proliferation Treaty, and the START treaty.

Those who worry that the United States will weaken its vigilance in our efforts to guard against the threat of chemical weapons have actually done us a service. I believe the intensity of this debate has helped to ensure that we will never allow ourselves to believe that the treaty by itself is enough. We will follow the course that President Reagan did—a strong national defense and arms control agreements with verification.

The CWC is not a panacea, and none of its proponents believes it is. It will not by itself banish chemical weapons from the earth, but it would result in the destruction of much of the world's chemical weapons stocks, and provide us with a valuable set of tools that would significantly strengthen our ability to monitor and defend against the threat of chemical weapons.

Our failure to ratify this treaty would be a grave mistake. The treaty will enter into force on April 29, with or without us. This is the only treaty that there is, and it requires U.S. leadership to make it work. Only by being a party to this convention can we make it function to its fullest possible extent.

I believe every Member on this side of the aisle supports this treaty. I urge my Republican colleagues to vote for ratification, after voting to strike the five killer amendments.

EXHIBIT 1

THE WHITE HOUSE,
Washington, April 22, 1997.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: I am pleased that we were able to talk last week about ratification of the Chemical Weapons Convention, including the concerns which have been raised about Articles X and XI of the treaty. I would like to take the opportunity to elaborate further on these issues and set the record straight.

Regarding Article X, concern has been expressed that this provision might force us or other treaty parties to share advanced chemical defense technologies and equipment with rogue nations like Iran and to assist in the development of CW defense capabilities. This simply is not the case.

First, only countries that have joined the CWC and renounced CW can request assistance and only then if they are threatened or attacked with CW. Indeed, the very purpose of Article X is to encourage countries to join the CWC and eliminate their CW programs by providing an assurance of international assistance in the event that they are threatened or attacked with CW by a non-party. For states in good standing under the CWC that do qualify for Article X aid, there is no requirement to provide high tech defenses or even gas masks. The obligation to assist can be satisfied with medical or humanitarian aid. Indeed, the President has committed in an agreed condition on the Resolution of Ratification (Condition #15) that the United States will only give medical help to certain countries of concern, such as Iran or Cuba, under Article X.

Second, with regard to the actions of other states, let me point out that countries contemplating any exchanges under Article X are legally bound by the fundamental obligation in Article I of the treaty never "to assist, encourage or induce in any way anyone

to engage in any activity prohibited" under the Convention. This means that all relevant transfers must be subject to very close scrutiny, especially with countries whose compliance may be in doubt. We will use every instrument of U.S. diplomacy and leverage at our disposal to ensure that transfers do not occur which could undermine U.S. national security interests, including the extensive verification and compliance provisions in the Convention. As Secretary Cohen said on "Meet the Press" on Sunday, we will be in a much better position to do this if we are inside the treaty rather than outside. Frankly, other countries will have little incentive to work with us to ensure that inappropriate transfers do not occur if we have not ratified ourselves.

Article XI encourages free trade in nonprohibited chemicals among States that join the CWC and renounce any CW capability. Some have charged that this provision might force us or our chemical industry to share dual-use technologies and manufacturing secrets with other countries. Such an interpretation is totally at odds with the plain language of the treaty. It also defies logic to suggest that a treaty expressly devoted to eliminating chemical weapons somehow requires its parties to facilitate the spread of chemical weapons.

First, Article XI is explicitly subject to the fundamental ban in Article I on assisting anyone in acquiring chemical weapons. Moreover, in order to reinforce the treaty's constraints against the transfer of dangerous technology, the President has committed in agreed condition #7 in the Resolution of Ratification to obtain official assurances from our Australia Group partners at the highest diplomatic levels that Article XI is fully consistent with maintaining strict export controls on dangerous chemicals and that they are committed to ensuring the Group remains an effective mechanism for dealing with CW proliferation. I would note that this condition also requires annual certification.

Second, with the CWC the countries undertaking exchanges are legally bound by the fundamental obligations in Article I. As Ron Lehman, former Arms Control Director under President Bush, recently stated in testimony before the Senate Foreign Relations Committee: "We made it very clear throughout the negotiations that all of this was subject to Article I, which is the fundamental obligation not to assist. . . . But the most important, I think, telling fact in support of the U.S. interpretation is the fact that after the Convention was done so many of the usual list of suspects were so unhappy that they did not get what they wanted in these provisions."

I would note, in conclusion, that renegotiation of Articles X and XI of the CWC, as the Helms condition (#32) in the Resolution of Ratification would require, is not a realistic option. This treaty was intensively negotiated for more than 10 years. It has been signed by 162 countries and ratified by 74. As Brent Scowcroft recently testified, "Starting over . . . is pure fantasy. If we reject this treaty, we will incur the bitterness of all of our friends and allies who followed us for 10 years in putting this together . . . the idea that we can lead out again down a different path I think is just not in the cards. We have got to deal with the situation we face now, not an ideal one out in the future." This is why the Senate must vote to strike this Helms Condition.

I hope this information facilitates the Senate's consideration of the CWC and look forward to a successful vote in the coming days.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll. The time will be equally divided.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 47

(Purpose: To strike condition no. 30, relating to chemical weapons in other states)

Mr. BIDEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 47.

On page 63, strike lines 8 through 20.

Mr. BIDEN. Mr. President, this is condition No. 30. As was indicated at the outset of the unanimous-consent agreement, the Senate has now agreed to 28 of the 33 conditions that were attached to the treaty that is before us today.

As I indicated at that time that I would be moving to strike five of the conditions, any one of which—at least four of which—if adopted, would essentially vitiate the treaty; would make our ratification useless.

They are killer amendments. This is one of those amendments. Mr. President, condition No. 30 would hold hostage our joining the Chemical Weapons Convention to the condition that rogue states—several rogue states, such as Iraq, Libya and North Korea—would have to sign and ratify the treaty before we became party to the treaty.

This has a very perverse impact. The first impact is we wouldn't be in the treaty. We would not have ratified the treaty, if we ratified this condition. Second, it has a perverse impact. It would prevent the United States from participating in the convention until a band of 2-bit regimes that specialize in flaunting norms of civilized behavior decide for us when we should be a member of this treaty. Seventy-four nations have already signed onto it.

This condition turns the present global arrangement on its head. Instead of the civilized nations of the world setting the rules, this condition effectively let's the villains determine the rules of the road and American policy. This condition ignores the critical fact that regardless of what the rogue states do, regardless of whether we join the CWC, or not, we have decided unilaterally to destroy our chemical weapons stockpile.

We will not use chemical weapons to respond to a chemical weapons attack. That is a judgment our military and our last Commander in Chief and this one has made. Instead, we will rely on what General Schwarzkof said, and General Powell, General Shalikashvili, and others will rely upon our overwhelming nonchemical military capabilities to deter and retaliate against the use of chemical weapons.

The best way to affect the behavior of these rogue states is to bring to bear the combined weight of the civilized nations of the world to isolate, sanction, and target those nations who would continue to produce chemical weapons in defiance of the creation of this international norm. But, Mr. President, first we have to establish the norm. If the United States of America says we will not join unless the bad guys join, then there is no reasonable prospect that such a norm will be established.

As Secretary of State Madeleine Albright has noted, to say that we should not have a CWC because there will be people out there who will continue to produce chemical weapons, or who will cheat, is a little bit like saying we should not have laws because people will break them. We should not have laws against murder because we know people are going to murder people. So have no laws against murder.

The point is that today there is nothing illegal—let's get this straight—under international law about producing chemical weapons, developing chemical weapons, or stockpiling chemical weapons. The purported Libyan chemical weapons program is completely legal today. The Iraqi chemical stockpile is completely legal today. In fact, there is nothing in international law that prohibits the use of chemical weapons internally. Like Saddam Hussein's poison gas attack against the Kurds within Iraq, there is nothing illegal about having or using these weapons in your own country. That will change once the CWC is in force.

To quote Gen. Colin Powell, "For us to reject this treaty now because there are rogue states outside that treaty is the equivalent of saying that we should not have joined NATO because Russia wasn't part of NATO." That is former Chairman of the Joint Chiefs Colin Powell—not me.

This treaty will establish standards by which to judge others. If it is violated—that is, if the treaty is violated—it will provide the basis for harsh action to punish and bring violators into compliance. The opponents will say that norms are meaningless unless there is a will to enforce those norms. They are right. But on that point, I would point out that without a norm there is nothing to enforce.

The bottom line is this: With the treaty we will have more tools and greater flexibility to act against those countries that threaten us and their neighbors. Should we choose military action we would be able to justify it as a measure taken to enforce the terms of a treaty to which we and 160 other nations who are signatories—only 74 ratified—are parties. North Korea is not. Libya is not. But 160 other nations have signed, and we are going to say that we will not join unless North Korea joins. As Gen. Colin Powell said, I am glad these folks weren't around when NATO was starting up to say we are not going to have NATO because Russia can't be a part.

Mr. President, I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, there is a lot of misunderstanding about this treaty. It has been advertised implicitly—not explicitly, of course—as a cure-all; as an end to the perils of chemical warfare. And a lot of people think it will all be over, and we will not have any more danger. The truth of the matter is that they will not do a thing in the world to help the situation because the Chemical Weapons treaty—Convention, as it has been called—is not a comprehensive ban. This treaty contributes to the national security of the United States and the American people, and that is what I am primarily interested in.

This treaty, it seems to me, must at a minimum affect those countries possessing chemical weapons which pose a threat to the United States. Accordingly, the United States should not become a party to this treaty—many Senators feel—until those countries are also participants. And no effort has been made to encourage them to come in. We are standing alone, and they are going to go about their little deviltry unmolested. Rogue states—like Iran, Iraq, Libya, Syria, and North Korea—clearly represent a threat to United States security and the security of key United States allies. And not one of these countries has ratified the CWC, and not one of them is likely to ratify.

First, the intelligence people in our own country—we call it the intelligence community—reported that all of these governments have active aggressive programs to develop and produce chemical weapons.

In March 1995, I believe it was, regarding the nonproliferation treaty, the Central Intelligence Agency released an unclassified estimate that gave a troubling assessment of the likely impact that the CWC would have upon the proliferation of chemical weapons.

This report said:

> A number of states continue to pursue the development or enhancement of a chemical weapons capability. Some states have chosen to pursue a chemical weapons capability because of relatively low cost, and the low technology required for chemical weapons production. Moreover, they believe that a CWC ability can serve as both a deterrent to enemy attack and as an enhancement of their offensive military capability.

I am quoting. The report says:

> Currently, at least 15 countries have an offensive CWC program in some level of development, and the most aggressive chemical weapons programs are in Iran, Libya, and Syria. The CWC will continue to be a serious threat for at least the remainder of this decade despite a number of armaments control efforts, such as the Chemical Weapons Convention. Several countries have expressed concern, excluding Libya, Syria and Iraq, which have so far refused to sign the CWC, and some CW-capable countries that have signed the treaty show no signs of ending their programs.

That was our intelligence community's assessment of the situation as of 1995.

Mr. President, while the intent of the CWC is good, what it proposes is to create a global chemical weapons ban, and it will not do any such thing. It simply will not achieve any other of the goals. Thirty percent of the countries with chemical weapons programs, including all of those with what is called aggressive programs, have not yet signed the treaty, let alone ratified it. Yet, these countries have been and will continue to be the paramount chemical weapons threat to the United States.

About 6 years ago, during Operation Desert Storm, the United States was so concerned about Iraq's chemical weapons program that we focused a huge percentage of long allied air attacks upon Saddam Hussein's chemical weaponry. A facility 65 miles north of Baghdad was the nucleus of Iraq's chemical weapons program, and a priority target during the early days of the gulf war. I was amazed then that no one seemed to pay much attention. And I am amazed now that no one seems to remember General Schwarzkopf's remarks during a press briefing at that time in Saudi Arabia. It was on February 27, 1991. Here is what he said:

> The nightmare scenario for all of us would have been to go through the Iraqi tank barrier, get hung up in this breach right here and then have the enemy artillery rain chemical weapons on the troops that were in the gaggle, in the breach right here.

Pointing to specific points.

Well, the point is this. That nightmare scenario exists today since Iraq has neither signed nor ratified this treaty.

Let us look at another rogue regime, North Korea. On March 18, 1996, the Director of the Defense Intelligence Agency, Lt. Gen. Patrick Hughes, forwarded to me a DIA assessment of North Korea's military capabilities which underscored United States concern with the war-fighting uses to which chemical weapons can be put.

Now, according to that study, and I am quoting, "In any attack on the South, P'yongyang could use chemical weapons to attack forces deployed near the DMZ, suppress allied air power and isolate the peninsula from strategic reinforcements."

Now, in boasting that this treaty will make American soldiers free from the threat of chemical weapons, the administration either has forgotten or deliberately ignored the fact that North Korea has neither signed nor ratified the CWC and the threat posed by North Korea and Iraq and others here. Now over 30,000 United States troops face North Korean troops armed and extensively trained with chemical weapons. Key airfields and ports are within striking distance of North Korean missiles, and with just a handful of chemical weapons North Korea could force United States aircraft to withdraw from the Korean Peninsula to Japan, and in fact in the near future North Korea may be even able to strike air bases in Japan with chemical munitions. Without air support and reinforcement, our ground forces and our South Korean allies would be overwhelmed within days.

The threat to the United States forces in the Persian Gulf being rotated from Iran and Iraq is no less troubling, Mr. President. The bottom line, I guess, is that rogue states—if you will look at the chart—see chemical weapons as the best means to offset the superior conventional forces of the United States and its allies. These countries continue to develop plans to use chemical weapons in the event of war, and we must remember I think, Mr. President, that each of these countries are state sponsors, Government sponsors, of terrorism and may supply chemical weapons to terrorist groups.

So when the CWC enters into force, our troops will be no safer from chemical attacks than they are today because the countries of greatest concern have not acceded to this treaty. For the CWC to offer any improvement, however modest, to the national security of the United States, it must at a minimum, I think, affect those countries with aggressive chemical weapons programs, those countries which have hostile intentions toward the United States and the American people.

I urge Senators, please, to oppose this motion to strike this key provision.

Have the yeas and nays been ordered on the motion?

The PRESIDING OFFICER. They have not.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there is a sufficient second?

Is there a sufficient second?

There is a sufficient second.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield the distinguished Senator from Massachusetts up to 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts for 10 minutes.

Mr. KERRY. I thank the Chair. I thank the distinguished minority manager.

Mr. President, with the active participation of the President and his National Security Council and other foreign policy and national security representatives, Senator BIDEN, the Foreign Relations Committee ranking Democratic member and his staff have worked diligently to remove as many of the objections and doubts about the Chemical Weapons Convention held by a number of Republican Senators as they possibly could remove. Working together, they sought to do this by providing official data and information about the convention, about Defense Department plans, and about intelligence sources and methods; by obtaining official commitments from the President; and by negotiating conditions to the treaty. This negotiating effort centered on Foreign Relations Committee Chairman HELMS and his staff and Senate Majority Leader LOTT and his staff as well as other Senators who have voiced major concerns about the treaty.

I believe the evidence is unassailable that the effort to negotiate conditions acceptable to both treaty proponents and opponents produced great progress—in fact, a degree of progress few thought was attainable when the process began. As a result, this afternoon the Senate has unanimously agreed to 28 conditions that address a sweeping range of treaty facets.

One measure of how successful this effort has been is that yesterday, former Senate majority leader and 1996 Republican Presidential nominee Bob Dole announced that, given the assurances and insurance those 28 conditions provide, he now supports the convention and believes it is in our Nation's national security interest to ratify it and participate in its ongoing efforts to eliminate chemical weapons from this Earth.

Senator Dole was clear in noting that the treaty remains imperfect in his mind, a fact that comes as no surprise to treaty proponents but still is loudly professed to be a shocking fact by some treaty opponents.

But despite the herculean effort that has resulted in agreement on 28 conditions to the treaty, Senator HELMS and some other Senators have been relentless in insisting on 5 other conditions. While the stated purpose of each of these conditions appears on the surface to be laudable, and that stated purpose could be readily embraced by virtually every Senator if not every Senator, ranging from stalwart treaty proponent to stalwart opponent, the practical effect of four of these conditions in the form in which their drafters insist on them would be to prevent the United States from ratifying the CWC, even if the Senate were to vote 100 to 0 for ratification with any of these conditions attached to the resolution of ratification the Senate approved.

For that reason, Mr. President, these proposed conditions to which treaty proponents could not possibly agree, which are contained in the substitute resolution authored by Senator HELMS along with the 28 conditions to which the agreement of both treaty proponents and opponents was secured, have come to be known among treaty proponents as the killer amendments.

This afternoon, under the terms of the unanimous-consent agreement that governs Senate action on the CWC, the Senate will take up these disputed conditions one at a time. Treaty proponents will move to strike each of them, and the Senate will vote on each of those motions to strike.

It is not possible to overemphasize the importance of these motions and the vote on them, Mr. President. Because regardless of what is said about the rationale for insisting on these disputed conditions, Mr. President, the fact is that the United States will be unable to ratify the CWC now or any time in the immediate future—and quite possibly never—if the effort to strike any one of them from the resolution fails. That is the gravity of what we will be doing on the Senate floor for the next 5 or 6 hours.

The first of the disputed conditions that we will take up is Condition 30, titled, somewhat antiseptically, Chemical Weapons in Other States. The text of this condition is quite short. Let me quote it verbatim:

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

Now let me translate that text into simple English. Under the terms of that condition, were it to be attached to the resolution of ratification and the Senate were to pass it in that form, regardless of how many votes the resolution receives, and regardless of the strong support of the President of the United States for ratification, the United States could not formally ratify the Convention or be a part of its efforts to remove chemical weapons from the Earth until and unless the President could and did certify to the Congress that all the rogue nations of the Earth had first ratified the Convention or formally agreed to abide by its provisions.

Mr. President, I certainly applaud those who drafted this condition for the objective they seek. There is no Senator who more fervently wishes than this Senator that Iran, Iraq, Syria, Libya, North Korea, China, Cuba, and Sudan—and, in fact, all nations on the Earth—will ratify the CWC and fully abide by all its provisions. Were that to be the case, Mr. President, the world would be a far, far safer, healthier, and more stable place for the human race.

Indeed, were that to be the case, the effect would be so profound that the CWC probably would no longer be needed, because we would have reached the unreachable, achieved the unachievable. We would have reached a near-Utopia.

But the hard, cold fact, Mr. President, is that while one or two or even more of these nations, some of which are often referred to as rogues, may ratify the CWC, and, if they do, we certainly hope and expect they will abide by its terms and destroy their chemical weapons arsenals and foreswear the production of any more chemical weapons, it is a safe bet that several of these nations will not ratify the Convention in the foreseeable future.

That absolutely cannot come as a surprise to anyone in this Chamber. I do not believe a single Member of the Senate could look me in the eye and make a genuine claim that he or she is surprised to learn that most close observers of these nations do not believe that several of them will ratify the CWC anytime soon.

Indeed, much of the 10 years during which the Reagan administration and Bush administration negotiating teams spent in exhausting and exhaustive negotiations to develop this treaty was spent to structure sanctions that will apply to trade in chemicals conducted by nations that do not ratify the CWC, in the full expectation that some if not all of these very nations will not ratify it. Think about it, and it will be painfully apparent. The CWC was not carefully negotiated and crafted to apply principally to those nations that ratify it and genuinely want to rid the Earth of all chemical weapons, though, of course, we must hold all nations accountable. It was negotiated and crafted to apply the pressure of world opinion, diplomatic pressure, and economic pressure on recalcitrant nations whose leaderships flaunt the civilized norm and equip themselves with these horrific weapons, and where even this pressure does not attain reformed behavior, to make it as difficult as possible for those nations to carry on their deadly efforts—to isolate them in all possible ways.

The Senator from North Carolina is absolutely correct when he says the

rogue nations, or at least some of them, have these materials. In a number of cases, I am convinced they will continue to produce them, Chemical Weapons Convention or no Chemical Weapons Convention. But the issue before the Senate is how can we best try to pressure them to reform their behavior. How do we make it as difficult as possible for them to continue to do that? It is not, I assert, by means of this condition. It will not directly have that effect. And, more destructively, it will prevent U.S. participation in the CWC, period.

Plainly, Mr. President, the authors of this condition know that if the condition we now are debating is not defeated, they have succeeded via the backdoor when they could not succeed through the front door in preventing U.S. ratification of the Chemical Weapons Convention. That is an outcome that must not be permitted.

This condition has other destructive consequences. Let me note a few of them.

First, this condition places control of a critical U.S. foreign policy and national security decision wholly in the hands of other nations, and not just any other nations. It places total control of whether the United States will ever ratify the CWC and participate in its vital efforts to rid the Earth of chemical weapons in the hands of the very group of nations that are led by those who are our avowed or de facto adversaries—our enemies if you will. What kind of sense does it make to give control of this key U.S. decision to any other nation, much less to any one of these nations? And yet this is the unintended consequence of action by Senators who in every other circumstance most vehemently insist that U.S. sovereignty must never be weakened or trampled.

Second, this condition either fails to recognize or ignores the reality that at midnight next Tuesday—April 29—the Chemical Weapons Convention takes effect with or without U.S. participation. The question of whether the Convention is the best that can be designed is not the salient question at this point. The principal question now relevant is whether the United States, its people, and its security interests are better served by being a part of the Convention and working from within its organization to pursue abolition of the world's chemical arsenals, or to remain outside the Convention, which already has been ratified by 74 nations and is sure to be ratified by others of the over 160 signatories.

If we fail to ratify, which emphatically will be the result of failing to strike this killer condition, guess which nations the company of which the United States ignominiously will join? Mr. President, in bitter irony, the United States, which under Presidents Reagan and Bush initiated, animated, and led the effort to negotiate this Convention, will join the company of precisely the group of nations this condition identifies as the world's villains and rogues. Rather than continuing to provide global leadership and rallying the world's community of nations to establish a new standard of behavior which proscribes all chemical weapons and engineers effective movement toward reducing them dramatically and ultimately, we hope, eliminating them entirely, we turn a sharp 180 degrees in the opposite direction, and refuse to be a part of this critical effort. In my judgment and the judgment of other people, U.S. prestige and respect around the world will be tragically tarnished. The ability of the United States to effectively lead the community of nations in myriad ways will be severely damaged. Our national credibility will suffer a serious blow.

Third, those who insist on this killer condition have claimed that they cannot countenance U.S. participation in the CWC because they are certain that some nations will not participate in it or, if they do ratify it, they will not abide by its terms—notably, they believe, including the nations listed in this condition or at least some of them. As the Senator from Delaware noted earlier, as he quoted Secretary of State Albright, this is analogous to saying that we should have no laws because we are certain that some people will break them.

Mr. President, I want to note what three of our most respected voices in this country with respect to national security affairs have said in agreeing that the United States should ratify the Chemical Weapons Convention and specifically addressing the linkage of our actions on the CWC to those of the outlaw states that is made by Condition 30.

Gen. Norman Schwarzkopf, commander of United States and coalition troops in Desert Storm, said, "I am very, very much in favor of the ratification of that treaty," referring, of course, to the CWC. "We don't need chemical weapons to fight our future warfares. And frankly, by not ratifying that treaty, we align ourselves with nations like Libya and North Korea, and I just as soon not be associated with those thugs in this particular manner." I think that is a pretty strong statement about precisely what this condition would do.

Gen. Colin Powell, former Chairman of the Joint Chiefs of Staff, who served in that role during the Bush administration and during the Desert Storm operation, has already been quoted by my colleague. He, too, made it very clear that we should insist on this linkage.

Former Assistant to President Reagan and Secretary of State James A. Baker III said:

> [S]ome have argued that we shouldn't commit to the treaty because states like Libya, Iraq, and North Korea, which have not signed it, will still be able to continue their efforts to acquire chemical weapons. This is obviously true. But the convention, which . . . will go into effect in April whether or not we have ratified it, will make it more difficult for these states to do so by prohibiting the sale of materials to non-members that can be used to make chemical weapons. . . . It makes no sense to argue that because a few pariah states refuse to join the convention the United States should line up with them rather than with the rest of the world.

Mr. President, that is not company that I want our Nation to be in. It would be a step that would have precisely the opoposite effect of that sought by its authors. Our failure to ratify the CWC will give any nation in the world all the cover it needs to fail to ratify. One need not have a great imagination to know what will result. When those nations that have ratified seek to point the finger of opprobrium at nonparticipants, very few will fail to respond that the United States has determined that it does not support this treaty or what it is designed to accomplish.

Accepting this killer condition is playing right into the hands of the rogue nations that want no limits on their macabre chemical activities. I would think that reality would send shivers up and down the spines of all who recoil at the idea of troops from one or more of these rogue nations employing an instantly fatal gas against American troops, or an aerosol compound that leads to the slow, wretched, excruciating death of thousands of American service men and women.

If we in the Senate do not remove this killer condition, we will be knowingly driving a stake through the heart of the first successful effort in human history to declare that manufacture or possession of chemical weapons is illegal under international law and to put unremitting pressure on those nations. Over time, if the United States puts its full weight behind the CWC effort as an active participant, the nations that refuse to participate will be shut out of the market for many dual use chemicals that can be used to make both chemical agents and commercial products as harmless as writing ink. Such nations will find it considerably more difficult to produce or acquire chemical weapons. This will produce cumulative pressure to join the community of nations by ratifying the treaty and living up to its requirements.

To those who say that is not sufficient, or that it will happen too slowly, or that there will be cheaters in the treaty as well as nonparticipants, I say what is your alternative that will work more surely or more rapidly? The reality is that those who are insisting on this killer amendment have no alternative, much less one that will work more surely or rapidly.

It must be remembered that currently it is not even illegal to make or

stockpile chemical weapons, and there is no other effort on the horizon to make these actions illegal or to effectively halt them. If the United States chooses not to ratify this treaty after leading the world to it, you can rest assured the community of nations will not be running to us to seek our leadership in some new effort to do that.

In addition to all the reasons I have cited for rejecting this killer condition, it is both appropriate and accurate to add every reason advanced by dozens of Senators of both parties during yesterday's and today's sessions for ratifying the Chemical Weapons Convention. Because the only practical effect of this condition is to make it impossible for the United States to ratify. Everything else that is said to justify accepting this condition is eyewash, window dressing, camoflage.

Only one thing about this condition matters, I say to all my colleagues. If this condition is not defeated, the ratification of the Chemical Weapons Convention is.

There can be no hiding from this central truth. Reasonable people can differ on substantive or policy grounds. Some Senators, albeit for reasons I believe are not meritorious or even logical, may conclude that they do not believe the United States should ratify the CWC. Presumably those Senators, whose number I hope is very, very small, will vote against the resolution of ratification. But no Senator can claim with veracity that he or she wants the United States to ratify the CWC now or in the foreseeable future, and participate in its vital activities to rid the world of chemical weapons, while voting to retain this condition. The two are mutually inconsistent, mutually incompatible. To place it in the vernacular, that does not compute.

I urge all my colleagues to consider and understand the gravity of the vote we are about to take. Those who support the CWC must vote to strike this condition.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Who yields time? The Senator from North Carolina.

Mr. HELMS. I have here, Mr. President, a group of editorial comments, making, as Sam Ervin used to say, uncommon good sense, in opposition to this treaty. I ask unanimous consent they be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 5, 1997]

NO TO THE CHEMICAL ARMS TREATY

(By James Schlesinger, Caspar Weinberger, and Donald Rumsfeld)

The phrase "damning with faint praise" is given new meaning by the op-ed by Brent Scowcroft and John Deutch on the Chemical Weapons Convention ["End the Chemical Weapons Business," Feb. 11]. In it, the authors concede virtually every criticism made by those who oppose this controversial treaty in its present form.

They acknowledge the legitimacy of key concerns about the Convention: its essential unverifiability; its lack of global coverage; the prospect that it will inhibit non-lethal use of chemicals, including tear gas; and its mandating the transfer of militarily relevant chemical offensive and defensive technology to untrustworthy countries that become parties. It is our view that these problems are inherent in the present treaty.

Take, for example, Scowcroft and Deutch's warning against cutting investment in chemical defensive measures. Unfortunately, treaties such as the Chemical Weapons Convention (CWC)—which promise to reduce the menace posed by weapons of mass destruction but which cannot do so—inevitably tend to diminish the perceived need and therefore the support for defenses against such threats.

In fact, in December 1995, the then-vice chairman of the Joint Chiefs of Staff recommended a reduction of more than $800 million in investment on chemical defenses in anticipation of the Convention's coming into force. If past experience is a guide, there might also be a reduction in the priority accorded to monitoring emerging chemical weapons threats, notwithstanding Scowcroft and Deutch's call for improvements in our ability to track chemical weapons developments.

Scowcroft and Deutch correctly warn that the "CWC [must] not [be] exploited to facilitate the diffusion of CWC-specific technology, equipment and material—even to signatory states." The trouble is that the Chemical Weapons Convention explicitly obligates member states to facilitate such transfers, even though these items are readily exploitable for military purposes. What is more, the treaty commits member states not to observe any agreements, whether multilateral or unilateral, that would restrict these transfers.

In short, we believe that the problems with the Chemical Weapons Convention in these and other areas that have been identified by Brent Scowcroft and John Deutch clearly demonstrate that this treaty would be contrary to U.S. security interests. Moreover, in our view these serious problems undercut the argument that the CWC's "imperfect constraints" are better than no constraints at all.

The CWC would likely have the effect of leaving the United States and its allies more, not less, vulnerable to chemical attack. It could well serve to increase, not reduce, the spread of chemical weapons manufacturing capabilities. Thus we would be better off not to be party to it.

Notably, if the United States is not a CWC member state, the danger is lessened that American intelligence about ongoing foreign chemical weapons programs will be dumbed down or otherwise compromised. This has happened in the past when enforcement of a violated agreement was held to be a greater threat to an arms control regime than was noncompliance by another party. The United States and the international community have been unwilling to enforce the far more easily verified 1925 Geneva Convention banning the use of chemical weapons—even in the face of repeated and well-documented violations by Saddam Hussein. What likelihood is there that we would be any more insistent when it comes to far less verifiable bans on production and stockpiling of such weapons?

As a non-party, the United States would also remain free to oppose dangerous ideas such as providing state-of-the-art chemical manufacturing facilities and defensive equipment to international pariahs such as Iran and Cuba. And the United States would be less likely to reduce investment in chemical protective capabilities, out of a false sense of security arising from participation in the CWC.

In addition, if the United States is not a CWC party, American taxpayers will not be asked to bear the substantial annual costs of our participating in a multilateral regime that will not "end the chemical weapons business" in countries of concern. (By some estimates, these costs would be over $200 million per year.) Similarly, U.S. citizens and companies will be spared the burdens associated with reporting and inspection arrangements that might involve unreasonable searches and seizures, could jeopardize confidential business information and yet could not ensure that other nations—and especially rogue states—no longer have chemical weapons programs.

Against these advantages of nonparticipation, the purported down-sides seem relatively inconsequential. First, whether Russia actually eliminates its immense chemical arsenal is unlikely to hinge upon our participating in the CWC. Indeed, Moscow is now actively creating new chemical agents that would circumvent and effectively defeat the treaty's constraints.

Second, the preponderance of trade in chemicals would be unaffected by the CWC's limitations, making the impact of remaining outside the treaty regime, if any, fairly modest on American manufacturers.

Finally, if the United States declines to join the present Chemical Weapons Convention, it is academic whether implementing arrangements are drawn up by others or not. In the event the United States does decide to become a party at a later date—perhaps after improvements are made to enhance the treaty's effectiveness—it is hard to believe that its preferences regarding implementing arrangements would not be given considerable weight. This is particularly true since the United States would then be asked to bear 25 percent of the implementing organization's budget.

There is no way to "end the chemical weapons business" by fiat. The price of attempting to do so with the present treaty is unacceptably high, and the cost of the illusion it creates might be higher still.

[From the Weekly Standard, Mar. 24, 1997]

JUST SAY NO TO A BAD TREATY

The United States Senate must decide by April 28 whether to ratify the Chemical Weapons Convention. The press, the pundits, and the Clinton administration have treated the debate over the treaty as another in a series of battles between "internationalists" and "isolationists" in the new, post-Cold War era.

It isn't. What we really have here is the continuation of one of this century's most enduring disputes. In the first camp are the high priests of arms control theology, who have never met an international agreement they didn't like. In the second camp are those who take a more skeptical view of relying on a piece of watermarked, signed parchment for safety in a dangerous world.

The case for ratifying the Chemical Weapons Convention is a triumph of hope over experience. It is an attempt to reform the world by collecting signatures. Some of the most dangerous nations—Iraq, Syria, Libya, and North Korea—have not ratified the convention and, for all we know, never will.

Some of the nations that are signatories, like Russia, China, Iran, and Cuba, are manifestly unreliable and are already looking for ways to circumvent the convention's provisions.

The convention's most prominent American defenders admit that the agreement is probably not verifiable. And it isn't. Chemical weapons can be produced in small but deadly amounts in tiny makeshift laboratories. The nerve gas used by terrorists to poison subway riders in Japan in 1995, for instance, was produced in a 14 ft.-by-8 ft. room. No one in the American intelligence community believes we would be able to monitor compliance with an international chemical weapons regime with any reasonable degree of confidence.

The Washington Post opines that these failings in the convention—the very fact "that the coverage of this treaty falls short and that enforcement is uncertain"—are actually arguments for ratifying it. Presumably, signature of a flawed treaty will make all of us work harder to perfect it.

Great.

At the end of the day, the strongest argument proponents of ratification can offer is that, whatever a treaty's manifest flaws, it is better to have one than not to have one. How could it be bad to have a treaty outlawing production of chemical weapons, no matter how full of holes it may be?

Well, actually, such a treaty could be worse than no treaty at all. We have pretty good evidence from the bloody history of this century that treaties like the Chemical Weapons Convention—treaties that are more hortatory than mandatory, that express good intentions more than they require any actions to back up those intentions—can do more harm than good. They are part of a psychological process of evasion and avoidance of tough choices. The truth is, the best way of controlling chemical weapons proliferation could be for the United States to bomb a Libyan chemical weapons factory.

But that is the kind of difficult decision for an American president that the Chemical Weapons Convention does nothing to facilitate. Indeed, the existence of a chemical weapons treaty would make it less likely that a president would order such strong unilateral action, since he would be bound to turn over evidence of a violation to the international lawyers and diplomats and wait for their investigation and concurrence. And as Richard Perle has recently noted, even after Saddam Hussein used chemical weapons in flagrant violation of an existing prohibition against their use, the international bureaucrats responsible for monitoring these matters could not bring themselves to denounce Iraq by name. In the end, it would be easier for a president to order an air strike than to get scores of nations to agree on naming one of their own an outlaw.

The Chemical Weapons Convention is what Peter Rodman calls "junk arms control," and not the least of its many drawbacks is that it gives effective arms control a bad name. Effective treaties codify decisions nations have already made: to end a war on certain terms, for instance, or to define fishing rights. Because they reflect the will of the parties, moreover, the parties themselves don't raise obstacles to verification.

But treaties whose purpose is to rope in rogue nations that have not consented, or whose consent is widely understood to be cynical and disingenuous, are something else again. They are based on a worldview that is at best foolishly optimistic and at worst patronizing and deluded.

One of the important things separating Reaganite internationalism from the more starry-eyed Wilsonian version is the understanding that treaties must reflect reality, not hope. The Chemical Weapons Convention turns the clock back to the kind of Wilsonian thinking characteristic of the Carter administration. It is unfortunate that among its strongest backers are some prominent Republicans who have served in key foreign-policy positions. It is true that the origins of the Chemical Weapons Convention date back to the Reagan years, and the convention was carried to fruition by the Bush administration. But let's be candid. In the Reagan years, the treaty was mostly a sop to liberals in Congress, an attempt to pick up some points for an arms control measure at a time when Reagan was trying to win on more important issues like the defense buildup and the Strategic Defense Initiative. And President Bush pushed the treaty in no small part because he had disliked having to cast a tie-breaking vote in the Senate as vice president in favor of building chemical weapons. Republicans today are under no obligation to carry out the mistakes of their predecessors.

In one respect, the debate over the Chemical Weapons Convention calls to mind the struggle for the party's soul waged in the 1970s between Kissingerian détente-niks on one side and the insurgent forces led by Ronald Reagan on the other. Back then, conservative Republicans like Senate majority leader Trent Lott knew without hesitation where they stood. They should stand where they stood before, foursquare with the ideas that helped win the Cold War, and against the Chemical Weapons Convention.

[From the Arizona Republic, Mar. 9, 1997]

CHEMICAL PACT

SAY NO TO THIS TREATY

Make no mistake about it.

Those were the words of President Bill Clinton, referring to the Chemical Weapons Convention in his State of the Union address.

He said ratification of the CWC "will make our troops safer from chemical attack . . . we have no more important obligations, especially in the wake of what we now know about the Gulf War."

Although all civilized nations can embrace the notion of eliminating chemical weapons, it would, nevertheless, be a mistake to ratify the CWC, signed by more than 160 nations—including the United States during the Bush administration.

The treaty requires the destruction of chemical weapons that signatories to the treaty own or possess, or weapons anywhere under their jurisdiction; the destruction of chemical weapons abandoned on the territory of another state; the destruction of chemical-weapons production facilities; the prohibition of riot-control agents as a method of warfare—all reasonable and worthy goals.

Ever since 1675, when a French-German agreement not to use poison bullets was concluded in Strasbourg, nations have struggled with how to limit the terribly destructive nature of chemical weapons, though none of the subsequent international agreements prevented the use of chemical weapons by warring factions.

In the 1980s, Iraq used chemical weapons, including nerve gas, against Iran, clearly violating the 1925 Geneva Protocol. But an international conference in Paris failed to enforce or fortify the Geneva Protocol, proving the difficulty is not a lack of law, but the failure to enforce it.

Under terms of the CWC, for the first time in U.S. history, private industry will be subject to foreign inspection, with inspectors being dispatched from an agency based in the Netherlands. In addition, businesses must prove to the U.S. government and international inspectors that they are not producing or stockpiling chemical weapons, with non-compliance fines reaching as high as $50,000 per incident.

Tucson's Sundt Corp. estimates that "with five major offices/warehouses/shops in two states, up to 35 job-site offices utilizing subcontractors and suppliers in eight states, the complete and final determination of what we have in the way of compounds and their derivative, the interactive relationships (with the list of chemicals) could involve the cost of a chemist's or consultant's time amounting to $50,000–$100,000 per annum, not including Sundt Corp.'s administrative time."

Under the terms of the treaty, inspections may be conducted at any facility within a state party without probable cause, without a warrant. Inspectors will be authorized under the treaty to collect data and analyze samples. This could result in the loss of proprietary information, or "based upon the depth of inspection, e.g. interviews with corporate personnel, employees, vendors, subcontractors; review of drawings, purchase orders, subcontracts; inspection and review of internal and external correspondence; we feel that it could be difficult to safeguard confidential business information during this inspection," says the Sundt Corp.

The obligation to open on-site inspections raises clear Fourth and Fifth Amendment concerns, inasmuch as no probable cause need be shown while a foreign state will have the right to a challenge inspection of a U.S. facility without the grounds that are essential for a search warrant.

As Sen. Jon Kyl, R-Ariz., has pointed out, the CWC may actually contribute to the proliferation of chemical technology because of its requirement that the United States share information with rogue nations, once they sign onto the CWC.

Further, American technology that might actually enhance the safety of U.S. troops—such as non-lethal immobilizing agents—could be prohibited if the Senate ratifies the convention in its present form.

The forces on both sides of this issue in Washington are men and women of good will. But the CWC is not a good deal for the United States. That is the message the Senate should continue to send to Bill Clinton, in unmistakable terms.

[From the Wall Street Journal, Apr. 1, 1997]

THE BUM'S RUSH

The debate over the Chemical Weapons Convention looks like it's about to turn into a slugfest, notwithstanding last week's spectacle of Jesse Helms and Madeleine Albright holding hands. Intimations of the battle to come were heard the week before last, when Democrats threatened to stall all Senate actions unless a ratification vote is scheduled. The Administration, meanwhile, is hyping April 29 as the drop-dead date for ratification in the hope of getting the Senate to short-change the "advise" part of its advise-and-consent responsibilities and rush to a vote before it has a chance to review it properly.

Majority Leader Trent Lott, who hasn't let on how he will vote, is the point man here. How he handles the treaty's passage through the Senate will be an important test of his leadership. While he has pleased Democrats by promising to bring the treaty up when the

Senate returns from recess in a few days, that doesn't mean that he's going to ram a vote down the Senate's throat, as the Administration hopes. Senator Lott is perfectly capable of spotting a bum's rush when he sees one, and he expressly made no promise for a vote before April 29, the date the treaty goes into effect with or without U.S. ratification. Despite Chicken Little warnings from the White House, there is no deadline for ratification; the U.S. can join as a full member at any time.

Before a ratification vote, there is plenty of time for a vigorous, public examination. The best place to start is with hearings, which Foreign Relations Committee Chairman Helms has scheduled to begin on April 9. Senators, especially the 15 new ones who missed last year's hearings, deserve a chance to understand exactly what they are being asked to vote on. At the moment the focus is on political maneuverings instead of where it should be: the content of the treaty.

For starters, Senator Helms could call the four former Defense Secretaries who adamantly oppose the CWC: James Schlesinger, Donald Rumsfeld, Casper Weinberger and Dick Cheney. Ask them about the treaty's verifiability, and they'll tell you it's impossible. (So, for that matter, will the treaty's supporters, whose best argument is that the treaty is flawed, but we ought to sign it anyway.) Douglas Feith, a Reagan Administration chemical weapons negotiator, likens enforcement to a drunk searching for his keys under a lamppost because that's where the light is. Under the CWC, members could look for chemical weapons in New Zealand or the Netherlands, but not in North Korea or Libya or Iraq, which have no intention of joining.

The former Defense Secretaries could also talk about Articles X and XI, which would require American chemical manufacturers to share their latest technology with fellow signatories—including the likes of Iran and Cuba. Legal scholars could offer some thoughts on the treaty's requirement that American companies open their doors to surprise inspections as to whether that squares with the Constitution's protection of property rights and its ban on search and seizure. CEOs could testify on the treaty's regulatory burdens, not to mention the threat of industrial espionage as inspector-spies snoop around their factories and troll through their files. Intelligence experts could discuss the impact on national security.

All this and more should emerge in hearings. In recent days, Republicans and Democrats have come to agreement on 21 of 30 points of contention over the treaty. That progress (which comes after weeks of Administration stonewalling, by the way) is on relatively minor issues and doesn't extend to the key concerns on verifiability, constitutionality or national security. The Administration would like nothing better than a perfunctory day or two of hearings on these crucial matters followed by a quick transfer to the Senate floor for a vote billed as "for" or "against" poison gas. It should come as no surprise if it doesn't want Senators to take too close a look: if they do, there's a good chance they might not like what they see.

Mr. HELMS. I yield to the distinguished Senator from Arizona [Mr. KYL], such time as he may require. Does he have an estimate?

Mr. KYL. Mr. President, 10 minutes.

Mr. HELMS. Take a shot at it. I want to be through along about 3:30, so we can vote.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I also ask unanimous consent to have printed in the RECORD a number of op-ed pieces.

There being not objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Mar. 4, 1997]

DON'T RUSH THE CHEMICAL WEAPONS TREATY

George Bush, James Baker, Brent Scowcroft—this is not exactly a lineup one would expect to find on the side of the Clinton White House. However, in the past few weeks, the administration has drawn upon all available resources in the hope of prevailing upon Congress to ratify the Chemical Weapons Convention—and to do it at once. A deadline of April 29 looms ominously on the horizon, so we are told, by which time the treaty goes into effect, having already been ratified by the necessary 65 countries. If the United States does not ratify by then, we will be left out in the cold with other non-signing ne'er-do-wells, and the world will laugh at this failure of American leadership. For heavens' sake, this is a treaty the United States itself negotiated! How can we possibly not ratify it?

Hold the horses here. As critics of the treaty including four past secretaries of defense have pointed out, it's not at all clear that it is in the interest of the United States to ratify the CWC, at least not until a number of problems associated with it have been resolved. The famous deadline of April 29 is basically of the administration's own making and ought not intimidate anyone. Of the 65 countries needed to trigger the treaty to take effect, the last one, Hungary, did so in November, and only after consultation with the White House, which told Budapest to go ahead.

In point of fact, as Michael Waller notes on today's Op-ed page, Russian Prime Minister Victor Chernomyrdin specifically warned Vice President Gore in a letter against rushing the process with other countries before ratification by the two most important signatories, Russia and the United States. Disregarding Mr. Chernomyrdin's warning, the Clinton administration pressed ahead in order to try to force the Senate's hand.

President Clinton and Secretary of State Madeleine Albright argue that non-ratification by the United States by April 29 will mean that we will be shut out from the regime's executive board. This is highly unlikely to happen, especially given that the United States is being asked to pony up a full 25 percent of the budget for enforcement. That's $52 million this year.

The fact of the matter is that the CWC may be in just as much trouble in the Senate now as it was back in the fall, when then-secretary of State Warren Christopher decided to postpone the debate for lack of support. For one thing, this Senate is more conservative than the previous one, and for another, numerous concerns have not been addressed. It redounds to the credit of Republicans that they have declared themselves willing to work with the administration to iron out these difficulties, but there is a very long way to go. Sen. John Kyl of Arizona tells The Washington Times' editorial page, "I believe we have an obligation to try to get as close as possible to making the treaty workable. And we'll see how far we can get."

Mr. Kyl, however, points to some serious problems. For one thing, it is not global. Iran and Libya, for instance, have not signed, and China and Russia have not ratified it. Should we be concerned about chemical weapons in Belgium and Holland? Of course not. They are not the problem. For another, the treaty is not adequately verifiable. Even the Clinton administration admits as much. And third, much like the Atoms for Peace program, it will spread the knowledge of a potentially lethal technology to countries that could make dangerous use of it. Add to these concerns the huge regulatory burden the treaty will impose on American chemical companies, in effect an unfunded mandate, as well as the constitutional problems with spot checks by international inspectors.

There may be ways out of these problems without sending the treaty back to the drawing board. One would be for the Senate ratification resolution (a document that accompanies all international treaties ratified by the Senate) to posit a set of conditions that must be fulfilled before the United States formally joins the CWC regime. A creative solution might be, for instance, to say that the CWC regulatory burden should not be imposed on American companies at least until such a time as the treaty has been ratified by countries that are key to its effectiveness—say, Russia, China and Iran.

On Friday, Senate Majority Leader Trent Lott informed administration negotiators that they will have to deal directly with the staff of Sen. Jesse Helms' Foreign Relations Committee, which is indeed where the responsibility belongs. Mr. Helms has some other issues outstanding with the administration, including State Department reorganization. If the CWC is truly as important as the White House claims it is, there's little time to be lost in getting the White House to work on the legitimate problems of this treaty.

[From the Wall Street Journal, Feb. 13, 1997

THE CHEMICAL WEAPONS COVERUP

(By J. Michael Walker)

President Clinton had hardly completed his first year in office when Sen. William Cohen (R., Maine) suspected that the administration was covering up ominous Russian military developments. Mr. Cohen introduced legislation requiring the president "to tell us and the American people what the Russian military was doing and what the implications were for American and Allied security." The Pentagon made the information available to Congress—but withheld it from the public. Mr. Cohen complained that the report "was classified from cover to cover, even though much of the report did not warrant being restricted by a security classification."

"Perhaps," Mr. Cohen surmised in a speech on the Senate floor, "the administration was worried about being embarrassed given its acquiescence to Russian military adventures." Whatever the reason, he said, "the decision to classify the report from the cover to cover has prevented Congress from conducting a complete public debate about Russian actions and the administration's policy toward Russia, and it has prevented the American people from becoming fully informed on these matters."

EERILY RESONANT

Mr. Cohen's criticisms of the administration to which he now belongs seem eerily resonant. The issue today is the administration's campaign to win Senate ratification of the Chemical Weapons Convention. Intended to abolish all chemical weapons world-wide,

the CWC contains many loopholes, legal discrepancies and weak enforcement mechanisms that render it ineffective. In particular, there is every reason to believe that Russia has continued work to develop deadly new chemical weapons that would skirt the treaty's requirements.

Hungary recently became the 65th country to ratify the CWC, tripping a mechanism that puts the treaty into effect April 29 with or without the ratification of Russia, China and the U.S. Thus the administration is pushing hard for ratification by that date, though it had put the CWC on hold last September over concerns that the CWC might unnecessarily burden U.S. industry. American companies would be subject to new regulations and would be compelled to open their records to foreign inspectors. Firms having nothing to do with chemical weapons—wineries, breweries, distilleries, food-processing companies and manufacturers of electronics and soaps—could be forced to reveal trade secrets to the inspectors, to the benefit of foreign competitors.

In its zeal to ratify the CWC, the administration has been distorting and even concealing vital information about the treaty. Written exchanges between key senators and the executive branch show grave inconsistencies and worse in the selling of the CWC:

Verification questions

Many senators are worried that the U.S. lacks the capability to verify other countries' compliance with the CWC. This disquiet is fueled in part by the rather vague assessments by Arms Control and Disarmament Agency Director John Holum and other officials, who repeatedly have reassured the Senate that the CWC is "effectively verifiable." Indeed, proponents say CWC will provide an added tool for intelligence collection.

But intelligence reports demonstrate it is insufficient, even though intelligence chiefs have given the CWC their obligatory endorsement. In 1994, then-CIA Director R. James Woolsey told senators that "the chemical-weapons problem is so difficult from an intelligence perspective that I cannot state that we have high confidence in our ability to detect noncompliance, especially on a small scale." And a May 1995 National Intelligence Estimate stated that production of new classes of chemical weapons "would be difficult to detect and confirm as a CWC-sponsored activity."

Clandestine production

Several countries—notably including Russia—maintain clandestine chemical weapon programs designed to elude detection. The administration virtually ignored reports of Moscow's continuing covert development and production of binary nerve agents, and made no visible attempt to induce Moscow to terminate the programs—until last week, when the Washington Times made public a classified Pentagon report. The report described Foliant, the code name of a super-secret program begun under the Soviets to develop nerve agents so lethal that microscopic amounts can kill. One of those substances is A-232 of the Novichok class of binary weapons, which were designed to circumvent future bans on such agents.

The Pentagon report says the chemical formulas are not defined in the CWC lists. Therefore, Novichok weapons technically are not banned under the treaty. The administration counters that they are banned "in spirit," but as with all its arms control agreements, Moscow has been banking on the technicality and the camouflage.

Russian military scientists and journalists revealed the program, but Russian officials were not alone in trying to cover it up. The leaked Pentagon report's low level of classification—secret as opposed to top secret—suggests that protecting intelligence sources and methods was not the objective of the secrecy. Rather, it appears the facts were simply too inconvenient for the administration's purposes.

Nearly all the leaked information had appeared in the press long before. In September 1992, Vil Mirzayanov, a dissident Russian scientist who worked for 26 years on the clandestine programs, wrote an article in Moscow News describing the existence and nature of Novichok, and the specific intent to circumvent the CWC. More details emerged over the next two years as authorities persecuted—but never disputed—Mr. Mirzayanov. One of Russia's top binary weapons scientists, Vladimir Ugiev, revealed the existence of A-232—which he personally developed—in an interview with the magazine Novoye Vremya in early 1994. And in May 1994 Mr. Mirzayanov wrote about A-232 and other substances in an article for this page. Along with these first-person accounts came additional revelations of both programs in the Baltimore Sun and other publications.

Backed by letters from Sens. Bill Bradley (D., N.J.) and Jesse Helms (R. N.C.), U.S. Ambassador Thomas Pickering held a Moscow news conference in January 1994 defending Mr. Mirzayanov for "telling the truth about an activity which is contrary to treaty obligations." Yet in Washington, officials kept silent. Only the embarrassment of last week's Washington Times report has spurred the administration to ask Russia to stop.

Weapons destruction

The U.S. and other nations have repeatedly offered to help Moscow destroy the tens of thousands of tons of declared chemical agents in its arsenals. A legal base toward this goal in the 1990 Bilateral Destruction Agreement. Visiting Bonn last spring, Mr. Holum of the Arms Control and Disarmament Agency learned that Moscow was planning to withdraw from the BDA, and wrote a May 21 cable to Washington with the news. Lawmakers who asked to see the cable were told for weeks that it did not exist. Senate sources say. Sen. Jon Kyl (R., Ariz.), a member of the Select Committee on Intelligence, wasn't allowed to read the cable until the eve of the expected September ratification vote, when he was shown only a redacted version.

Chernomyrdin letter to Gore

Russian Prime Minister Viktor Chernomyrdin sent a letter to Vice President Al Gore on July 8, 1996, warning that if the CWC went into effect before Russia's ratification, Moscow probably wouldn't ratify it. The letter was faxed all around Washington, but when Sen. Helms, chairman of the Foreign Relations Committee, asked the administration for a copy, the administration classified it.

STRATEGY BACKFIRED

The Clinton administration had hoped to present the Senate with a fait accompli: that's why it encouraged Hungary and other nations to ratify the treaty and automatically trigger its implementation. Yet the White House strategy seems to have backfired. After Hungary set the CWC in motion, the upper house of the Russian Parliament voted down a long-awaited law that would establish the legal basis for chemical-weapons destruction. Just as the administration began its new CWC sales pitch, the Pentagon was forced to explain why it had done nothing for four years to convince Moscow to terminate its clandestine binary weapons program. And with former Sen. Cohen settling in at the Pentagon, others in the administration still hide behind their paper shield of secrecy.

[From the Wall Street Journal, Feb. 19, 1997]

A DANGEROUS TREATY

Among the many good reasons why the Senate should not ratify the Chemical Weapons Convention is a substance known as A-232. This highly lethal nerve agent was concocted by a Russian scientific team precisely for the purpose of circumventing the terms of the CWC, which both the U.S. and Russia have signed but not yet ratified. A-232 would escape scrutiny under the treaty because it is made from agricultural and industrial chemicals that aren't deadly until they are mixed and therefore don't appear on the CWC's schedule of banned chemicals.

The world has known about A-232 since the May 1994 publication on this page of an article by a Russian scientist, who warned how his colleagues were attempting to camouflage their true mission. It is now the subject of a classified Pentagon paper, reported in the Washington Times earlier this month, on the eve of what is shaping up to be an escalation of the battle joined in September over ratification of the Chemical Weapons Convention.

The Administration was forced to sound the retreat then, pulling the treaty from consideration when it became clear that the Senate was preparing to vote it down. Now it's trying again, this time in full cry about the urgency for U.S. ratification before April 29, the date it goes into effect. For now, Senator Jesse Helms has kept the treaty tied up in the Foreign Relations Committee, making the sensible argument that the new Senate ought first to focus on matters of higher priority than ramrodding through a controversial treaty that merits careful deliberation.

The Administration, meanwhile, is mounting a full-court press, with the president offering a plea for ratification in his State of the Union address "so that at last we can begin to outlaw poison gas from the earth." This is an admirable sentiment—who isn't against making the world safe from the horrors of poison gas?—but it's far from the reality. In fact, ratification would more likely bring the opposite result.

Article XI is one of the key danger areas. It would obligate U.S. companies to provide fellow signatories with full access to their latest chemical technologies, notwithstanding American trade or foreign policy. One country delighted at the prospect of upgrading its chemical industry is China, which, upon signing the CWC, issued a declaration saying, "All export controls inconsistent with the Convention should be abolished." No doubt Cuba and Iran, to name two other signatories, share the same sentiment. The Russian team that came up with A-232 no doubt could accomplish much more with the help of the most up-to-date technology from the U.S.

Verification is an insurmountable problem, and no one—not even the treaty's most ardent supporters—will promise that the treaty can be enforced. In the administration's obfuscating phrase, the CWC can be "effectively verified." Yet if chemical weapons are easy to hide, as A-232 proves, they are also easy to make. The sarin used in the poison-gas attack on the Tokyo subway was created

not in a fancy lab but in a small, ordinary room used by Aum Shinri Kyo's amateur chemists. The treaty provides for snap inspections of companies that make chemicals, not of religious cults that decide to cook up some sarin in the back office. The CWC wouldn't make a whit of difference.

Those snap inspections, by the way, could turn into a huge burden on American businesses, which would have to fork out millions of dollars in compliance costs (though the biggest companies no doubt would watch the heaviest burden fall on their smaller competitors).

More than 65 countries have already ratified the CWC, including most U.S. allies. But somehow we don't think the world is more secure with Australia and Hungary committed to ridding the world of chemical weapons when such real threats as Libya, Iraq, Syria and North Korea won't have anything to do with the CWC. How can a treaty that professes to address the problem of chemical weapons be credible unless it addresses the threat from the very countries, such as Syria and Iraq, that have actually deployed these weapons?

With or without the CWC, the U.S. is already committed to destroying its chemical weapons by 2004. That doesn't mean the rest of the world shares any such commitment; what possible peaceful purpose does Russia have in the clandestine production of A-232? Instead of pushing a treaty that can't accomplish its impossible goals, the Administration would be better advised to use its clout, rather than that of some planned U.N.-style bureaucracy, in getting the Russians to stop making nerve gas.

It's hard to find a wholehearted advocate of the treaty. The gist of the messages from most of its so-called champions is that it's a poor deal, but it's the best on offer. But their cases have acknowledged so many caveats that it's hard to see how they've reached such optimistic conclusions. The biggest danger of ratification is that it would similarly lull the U.S. and other responsible nations into the false belief that they are taking effective action against the threat of chemical weapons. The case for this treaty strains belief too far.

Mr. KYL. Mr. President, the condition we have before us right now is whether or not the United States will be a party to a meaningful treaty, that is to say a treaty that covers nations that it needs to cover. It will not do us any good if we are a party to a treaty, paying 25 percent of the costs, to inspect ourselves. Right now, the countries that have ratified this treaty are not the countries that are of concern to us. They do not have weapons. As a matter of fact, right now the countries that are parties have nothing to inspect. The United States, if it believes this treaty is ultimately going to have any positive effect, that is to say if it has significant verification features, and if it is global in the sense that most of the countries of the world that have chemical weapons are parties to it, and if it is enforceable—at that point in time the United States presumably could get something out of this treaty. In the meantime, the only thing we get out of it is the opportunity to pay a lot of money, as I say, to inspect ourselves. Because the countries that need to be inspected are not yet in it.

Specifically, 74 countries have ratified the treaty and they are the countries of least concern to the United States. The three countries that have the largest amount of chemical weapons in the world—Russia and China and the United States—are not parties, nor are any of the so-called rogue countries of the world.

Many of these countries have no intention of signing onto the treaty. North Korea, Iraq, Libya, Syria, and Sudan have all refused to sign the treaty. Others, such as Cuba and Iran, have signed the treaty but have not yet ratified it. In the meantime, some of these countries, such as Iraq, continue to stockpile and develop chemical weapons.

So, the question is, will the United States enter this treaty at a time when it is meaningless, or will we, instead, use our entry as a prod to cause other countries of the world that need to be parties to be parties. For the treaty to offer any potential improvement, however modest, to the national security interests of the United States, I think at a minimum it must affect those countries with aggressive chemical weapons programs and which have hostile intentions toward the United States. Let me just outline briefly who these—who some of these countries are.

North Korea—North Korea's program involves the stockpiling of a large amount of nerve gas, blood agents, and mustard gas. And it is capable of producing much more, according to our intelligence sources. Its armed forces have the ability to launch large-scale chemical attacks using mortars, artillery, multiple rocket launchers, and Scud missiles. And it is presently developing a new generation of medium-range ballistic missiles that will be able to carry chemical warheads. North Korea has neither signed nor ratified the Chemical Weapons Convention.

Iraq—despite the most intrusive inspection and monitoring regime in the history of the world, Iraq has retained a chemical weapons production capability and continues to hide details and documents related to its chemical weapons program. The U.N. Special Commission believes that Iraq continues to hide chemical agents, precursors, and weapons. Iraq admitted in 1995 that it had produced over 500 tons of a lethal nerve gas agent before the Gulf war. The U.N. inspectors had previously been unable to uncover evidence of this, despite a more rigorous inspection regime than even those mandated by the Chemical Weapons Convention verification regime. As noted, Iraq has neither signed nor ratified the Chemical Weapons Convention.

Iran—Iran has been producing chemical weapons at a steadily increasing rate since 1984 and now has a stockpile of choking, blister and blood agents of over 2,000 tons. It also may have a small stockpile of nerve agent. It has the ability to produce an additional 1,000 tons of chemical agents per year.

It has signed but not ratified the CWC. Even so, and this is critical, Iran's chemical weapons program is among the largest in the Third World. It has continued to expand, even since Tehran signed the CWC. And the Central Intelligence Agency believes that Iran has no intention of abiding by the terms of the CWC.

Iran is making improvements to its chemical capabilities that suggest it has made a long-term commitment to its chemical program. I repeat, the CIA believes that Iran has no intention of abiding by the terms of the CWC. It is the most active state sponsor of international terrorism. It is directly involved in planning and directing terrorist attacks. And it could supply chemical weapons to a number of terrorist groups. Iran has not ratified the Chemical Weapons Convention.

Syria has produced chemical weapons since the mid-1980's. The CIA believes that it is likely that Syria's chemical weapons program will continue to expand. Syria can indigenously produce nerve agents and mustard gas, and is stockpiling both agents. It may have produced chemical warheads for its Frog and Scud missiles for use against Israeli cities. Syria has not signed nor ratified the Chemical Weapons Convention.

Libya—Libya has produced at least 100 tons of chemical agents, including mustard and nerve gas. Libya is capable of delivering its chemical weapons with aerial bombs, and may be working to develop a chemical warhead for ballistic missiles. It also possesses cruise missiles. Libya has neither signed nor ratified the Chemical Weapons Convention.

Mr. President, the point is, unless these countries are party to this treaty, whatever benefits the treaty has are essentially meaningless. This is one of the reasons why former Defense Secretary Dick Cheney said this, in a letter he wrote about a week ago. He said:

> Those nations most likely to comply with the Chemical Weapons Convention are not likely to ever constitute a military threat to the United States. The governments we should be concerned about are likely to cheat on the CWC, even if they do participate.
>
> In effect, [he wrote] the Senate is being asked to ratify the CWC even though it is likely to be ineffective, unverifiable, and unenforceable. Having ratified the convention, we will then be told we have "dealt with the problem of chemical weapons" when in fact we will have not. But, ratification of the CWC will lead to a sense of complacency, totally unjustified given the flaws in the convention.

Finally, to the point. The Senator from Massachusetts said that we are somehow holding ourselves hostage to the rogue states. Precisely the opposite is the case. We decide when to join this convention, not because the administration says there is an automatic

deadline under which we have to do so, but when we say it will matter. When we are not having to pay 25 percent of the costs of a meaningless convention, in effect 25 percent of the costs to inspect ourselves. Mr. President, $200 million a year to help this U.N.-style bureaucracy, in addition to putting the businesses of the United States through all the hoops they are going to have to go through in order to comply with this convention.

I have written to my constituents the names of companies on the list supplied to us by the Government as potentially required to comply with the reporting requirements of the convention. They write back to me saying it would cost them $50,000, $70,000, or more than $100,000 a year, just to fill out the forms.

What we are saying is, instead of putting our businesses through the expense and hassle of having to comply with this when nobody in the United States has any intention of violating this treaty—these companies back in Arizona have no intention of producing chemical weapons—instead of submitting ourselves to that intrusive bureaucratic regulation and expense, not to mention the expense to the U.S. taxpayer, let us be involved in this when it means something; that is to say, when the countries we really care about are involved in it.

Finally, to the point that we are somehow associating ourselves with thugs by not joining, I find that really an argument that is, really—

Mr. HELMS. Insulting?

Mr. KYL. Mr. President, I don't want to use the word insulting, but it has no persuasive force, let's put it that way.

Does this mean if a country like Iran or Cuba, for example, signs up, that we would be associating with lesser thugs? Actually, don't the proponents of the treaty want us to associate with thug nations, if this is going to mean anything? Don't we want all of those countries in the treaty with us?

Somehow, under their logic, we don't want to associate with these thugs. Yet, they want to pass a treaty that, presumably, if it is going to mean anything, has these thugs in it, in which case we are associating with them.

Obviously, the point is not whether we are associating with thugs. I don't think that any of us can fail to make appropriate distinctions here. The fact of the matter is, those thug nations, if this treaty is to mean anything, ought to be part of the organization and, at that time, the United States then could participate in a meaningful way. Until those thugs are a part of this treaty, we are just wasting our time and money and putting a lot of our citizens to an awful lot of unnecessary hassle.

The point of this condition is to make a point, to make the point that the countries that really matter are not even going to be governed by this treaty. It is one of the reasons why this treaty, in the end, cannot be supported.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. HELMS. Mr. President, allow me to inquire of the distinguished colleague, does he have somebody ready to go now? I do, if he does not.

Mr. BIDEN. Why don't you go ahead?

Mr. HELMS. I believe I have an hour and 6 minutes that I saved a while ago. I yield 10 minutes of that to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee for his leadership on this issue, for talking about this treaty so that all of America is beginning to see what the issues are.

I hope to be able to support the Chemical Weapons Convention as strengthened by the resolution of ratification introduced by the chairman of the Foreign Relations Committee.

Before I address this resolution, I want to draw our attention to the remarkable events in Lima, Peru. The Peruvian Armed Forces and police conducted a bold, daytime raid and rescued 71 of the 72 hostages being held by a terrorist group for 4 months. As part of the operation, the Peruvian Army used riot control agents to stun the terrorists and rescue the hostages.

I would caution my colleagues, regardless of where they come out on this treaty, that the actions of the Peruvian Armed Forces that resulted in minimal loss of life among the hostages were quite possibly a violation of the Chemical Weapons Convention, which expressly forbids the use of riot control agents as a method of warfare.

I make this point because this treaty has many things in it that we must think about very carefully. I believe the proposals the distinguished Senator from North Carolina has offered in the resolution before us will turn a flawed treaty into an effective, verifiable tool of American foreign policy. We are talking about safeguards that ensure the treaty will be something that America can support, knowing that we are protected, both in our constitutional rights and in the security of our country.

One of the amendments before us today would take away one of the very important elements of protection about which I speak. The amendment I am referring to does not require that the Director of the CIA certify that the countries which have been determined to have offensive chemical weapons, like Iran, Iraq, Syria, Libya, North Korea, China—have ratified the convention. We want to make sure that those countries are going to come under the auspices of this convention. I think it is important that we have those safeguards.

So, I hope my colleagues will support the resolution, the underlying resolution, rather than the amendments that are being put forward.

I am glad the Senate is taking the opportunity to improve this treaty. Our constitutional responsibility to advise and consent on treaties is one of the most important that we have. Unfortunately, we have gotten into the bad habit of all consent and no advice. When it comes to that, we cannot let that happen. That is why we are here. That is why the Constitution requires two-thirds of our body to ratify any treaty that America would participate in.

Mr. President, international treaties extend the full faith and credit of the United States, and they become the law of our land when they are ratified. So the United States cedes a little sovereignty with every treaty the Senate ratifies. That is why the framers of our Constitution wanted to be very careful that two-thirds of the Senate would be needed to ratify any treaty that would become the law of our land.

Like no other treaty before it, the Chemical Weapons Convention will make this loss of sovereignty apparent to thousands of Americans at thousands of companies who will be faced with new Government regulations or be subject to searches and seizures of their property by teams of international inspectors. These are the practical effects this treaty will have on ordinary Americans.

As many as 670 companies in my home State of Texas will be directly affected by this treaty. Only a handful of these companies are actually in the chemical industry. Many others use small amounts of chemicals for legal, nonmilitary purposes. But according to this treaty, they will be required to submit business information to a new United Nations-style international organization that will monitor this treaty, or they will have to open their property to inspections by teams of international inspectors.

Because of the way this treaty will affect ordinary Americans, it is a profound departure from previous arms control treaties which were really limited to military contractors and installations. That is why we must look so carefully at this treaty. If we are going to impose this burden on ordinary Americans, then we must make sure that the benefits outweigh the costs.

First, let me say, without qualification, that chemical warfare is reprehensible and it deserves uniform condemnation. I am proud that the United States has already decided to destroy any chemical weapons that we might have with or without this treaty. But, Mr. President, it is also our responsibility to make sure that we have defenses against any country that might

use chemical weapons in order to be sure that we are not unilaterally disarming ourselves.

I support the 1989 and 1990 agreements between the United States and Russia that ban the production of chemical weapons and require both countries to destroy their stockpiles. Those two agreements were backed up by tough onsite inspections in which each side can watch the other destroy the weapons.

Unfortunately, neither the Geneva Protocol against chemical weapons use nor the two agreements that we have signed with Russia are actually being enforced.

When the Government of Iraq used chemical weapons against its own citizens in the 1980's, the United Nations could not even agree upon a resolution condemning Iraq.

The two Russian agreements are dead, too. The Russian Prime Minister told Vice President Gore in July 1996 that both agreements have outlived their usefulness. It appears that the Russians do not intend to honor these agreements. I remind my colleagues that Russia has the world's largest stockpile of chemical weapons, and this is not a trivial matter.

So, Mr. President, we have three good, tough, supposedly enforceable international agreements to restrict the use of and destroy chemical weapons. But those agreements have failed. So now we are here today to consider another agreement, even tougher, that involves more countries, and we hope it will work where others have failed.

Mr. President, I think we have to address three key questions when we are talking about not only destroying our chemical weapons but sharing the technology that we have for defending against them.

My first question: Will this treaty achieve the desired objective, an objective we all want, and that is to rid the world of chemical weapons?

I do not think so. Even the most ardent supporter of the treaty knows that this is not going to rid the world of chemical weapons. We know that there are outlaw regimes producing chemical weapons as we speak that have no intention of signing or ratifying this treaty.

Iraq is one example. Iraq makes a mockery of international agreements. The Government of Iraq has used chemical weapons against its own people, for Heaven's sake. Who among us believes that a government that would do this would honor an agreement when it has already used these weapons on its own people?

Even worse, this treaty as written actually encourages the spread of chemical weapons technology among the countries that are parties to it because articles X and XI require treaty participants to share their chemical weapons defense technologies and prohibits countries from placing restrictions on commerce in chemicals that can be used for weapons purposes.

Mr. President, I think what we see here is good-intentioned, but we are talking about restricting ourselves from producing chemical weapons, which we want to do, and we are talking about sharing our defenses against chemical weapons with countries that may be represented in international inspection groups that would come into our businesses and could easily give this information back to the countries who are not signatories.

That is why these amendments are so important, so that every one of these countries that has chemical weapons will be a party to this agreement, so that at least we would know that we have some ability to sanction these countries when they are not able to show us that they are complying.

Mr. President, my second question is: Can we determine with reasonable accuracy that the other countries that have signed the treaty will honor it, as we certainly will? We all remember President Reagan's words, "trust but verify." We need the ability to verify.

This is a treaty that I am afraid there is no way we could really verify. In fact, even the supporters admit that you cannot really verify it. We are trying to strengthen it so that we will have at least some ability. But then it comes into question, are we going to exercise those abilities?

I think one of the concerns that I have is that we know that countries with whom we trade, countries with whom we have good relations, are actually selling the equipment to make nuclear weapons to these countries that are rogue nations, that are terrorist states, right now as we speak. Germany is. Russia is. China is.

What are we doing about it? What are we doing? We are not standing up and saying, there are consequences to that action, because we do not want to rock the boat in some other area of foreign policy.

Mr. President, if we are not going to stand up when countries with whom we are trading and with whom we have friendly relations are this very day selling nuclear weapons or nuclear capabilities to rogue nations, like Iran and Iraq, how could we ever say that this treaty would be verifiable and that all of the signatories would comply with this treaty and that we would in fact do anything if they were not?

Mr. President, my third question is: Can we protect the constitutional rights of ordinary Americans affected by the treaty who are engaged in activities that have nothing to do with the production of chemical weapons? I think this is one of the most important issues—the constitutional right against an unreasonable search or seizure.

The protections offered by the chairman of the Foreign Relations Committee, Mr. HELMS, is a first step. But we are going to have to hold on to the protections that have been put in the bill by the committee because the fourth amendment to the Constitution is a pillar of the Bill of Rights. It protects the rights of our people against unreasonable searches and seizures. Yet this agreement, the chemical weapons treaty, would allow people to come in, international groups, to inspect our companies, not companies that are making chemical weapons—we do not do that—but companies that use chemicals for any other myriad of purposes, to get their trade secrets or our defense mechanisms against the chemical weapons that we may have to face one day.

Mr. President, I am just very worried that we would disarm ourselves and lose the ability to protect ourselves against a rogue nation that will not sign and ratify this treaty.

The amendments offered today would take away the protections that are now in the resolution against that happening because the resolution says all of these rogue nations must be a party to the agreement so that at least we would have the mechanisms to go in and try to find these chemical weapons. Yet, you know even the best effort that we have been able to make in finding chemical weapons in Iraq have failed. Right now our international agreements allow us to look in Iraq for chemical weapons. We have not found any. And yet all of the inspectors in the international group that are trying to find those weapons have not been able to do it, but they say they know they are there. They are sure that they are there. So the verifiability becomes a real issue.

Mr. President, I think that the committee has done an excellent job of protecting the interests of Americans in this treaty. I hope that we can keep the safeguards so that all of us can vote for this treaty. I would like to because I respect the people who are for the treaty.

I have the greatest regard for President Bush. I think he is a wonderful man. He would never leave the United States of America defenseless. But you know, if Senator KYL and Senator HELMS had not stood up, one of the safeguards that President Bush put in the treaty would have been taken out, and that is the use of tear gas by our forces in wartime, because President Bush made sure that we said right up front, yes, we will use tear gas because we would rather use tear gas than bullets.

President Clinton disagreed with that. He said, no, we would not use tear gas. But because of the efforts of Senator HELMS and Senator KYL, we have been able to agree on that issue.

So, Mr. President, I hope to be able to support this treaty. I thank the distinguished chairman of the committee

for allowing me to speak and for his leadership. I would like to be able to support it, but I will not support this treaty without the safeguards to the security of America. That is my first responsibility.

Thank you, Mr. President.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 10 minutes to my colleague from Indiana.

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

Mr. LUGAR. I thank the Chair.

I thank the distinguished Senator from Delaware.

Mr. President, the objective of the Chemical Weapons Convention, the debate that we are involved in now, is leadership, a question of leadership by our country.

We can take a look at all the exceptions and the negative views, but the very positive force I think we want to stress in framing this issue is, the United States of America, our statesmen, President Ronald Reagan, George Bush, now President Bill Clinton, and many who have worked with them in the Armed Forces and in statecraft, recognize that our country has a very substantial problem in the world; namely, that of chemical weapons.

We came to a determination on our part that these weapons were unreliable, unstable, dangerous, and so dangerous, as a matter of fact, that we did not wish to employ them—we wished to destroy them. We have been doing that as a nation.

Our dilemma is that other nations, primarily Russia, with substantial stores much greater than our own, but a variety of other nations, purportedly have these weapons. Our problem is to convince other nations in the world that we all ought to be about the task of ending production of these weapons, ending possession, storage, ending any vestige of them.

Now, in order to do that, we have to bring other nations into this with us. Therefore, we have offered leadership now for many years. We have convinced 74 other nations that have already ratified the Chemical Weapons Convention that they ought to be with us in this quest. I make that point at the outset, Mr. President, because the motion before the Senate is to strike a condition added, at least to this treaty, that would say we ought to forgo our leadership, we ought to really forget what our objective has been for years. I presume we ought to forget we are in the process of destroying all of our own chemical weapons and simply hope that others might proceed.

As a matter of fact, if we do not ratify this convention this evening, others will proceed, but they will proceed without us. Our diplomacy with Russia will be severely impaired. As a result, even though we are working with Russia now—as a matter of fact, to help them destroy chemical weapons—through reasons the world will find hard to understand, we will have denied the very treaty we have asked others to join us in. It makes no sense.

Let me say with all due respect to those who formulated the idea that we should not ratify the Chemical Weapons Convention unless the so-called rogue states—named as North Korea, Libya, Syria, Iran, and Iraq—join, must have really stayed up nights trying to think of some way to throw us off course. I presume they felt that our antipathy to some of these states would be such that we would say if they are not going to be a part of it, we ought not to be a part of it, we ought to simply go after them in a unilateral way. Let me examine that for a moment, Mr. President.

The Senator from Delaware and the Senator from Massachusetts have talked about law, about legitimacy. As a matter of fact, our Nation does have the mobility to be an enforcer. In the event we feel our security is threatened, our President might, in fact, consider a military action against a nation that offered a security threat to us. But let us examine the implications if our President decides to do this. If he is going to act unilaterally without benefit of international law—and international law does count because other nations understand the implications of that cooperation and the binding that brings—if we are going to contemplate solo strikes without benefit of international law, then we will have to think about overflight rights, about the problems of our pilots if our aircraft are down, about a number of implications in which we count upon cooperation of nation-states. International law does count. It makes a difference that there is a law against this, and that the United States acts with other nations and with their backing to enforce that, and that we shall have to do.

Much has been said about lack of military will or lack of political will, but, Mr. President, I have seen very little of that in this Chamber during this debate. We are serious about this.

Mr. President, let me add just as a topical matter, because the Members of the Senate who have been watching local television at least in the last half-hour appreciate that in northwest Washington, in the downtown area near the B'nai B'rith headquarters, a vial of chemical material or biological material is present that authorities of the police and fire department and special persons in the Washington, DC, area have now picked up this material, and people in the B'nai B'rith headquarters are being decontaminated. A suggestion is that it may be anthrax, a very deadly biological weapon.

It was not long ago on this floor, Mr. President, that the Nunn-Lugar-Domenici Act was debated and we talked then in terms of attempting to bring Department of Defense resources into play with the cities of this country—Washington, DC, being prominent among them, Atlanta, GA, Denver, CO, and 23 other cities have been named—so that in the event there should be anthrax, which was specifically mentioned in the debate, we were prepared to move. That is leadership, Mr. President. We saw the threat and we prepared to move upon it. We have done so.

Now, we will do so with regard to the international scene. But the treaty gives us the basis of international law. To suggest for a moment, Mr. President, we ought to be deterred from our leadership by whether Iraq joins, whether Iran is involved, whether North Korea should ever be involved, is to stretch credibility really to the breaking point. These nations are irrelevant to our membership and our leadership. They are irrelevant to our standing for international law and our ability to act, and to act decisively. That must be our standard, Mr. President. With imagination, one will think of all sorts of hobgoblins that can be thrown up to make an interesting debate, but debate is leadership, and debate is decisive political will, and the debate is our ability to convince other nations of the world they should come with us, that we are reliable, that we stay the course, that our word is good, administration after administration.

Mr. President, this is the reason we should vote to strike this amendment, this condition, from the convention immediately, decisively. It has been a point, clearly, a parliamentary procedure, and that our failure to do so, as a matter of fact, jeopardizes the entire treaty. It is improbable, if not impossible, our Nation would ever join, would ever follow through on our leadership, if we were to wait upon states that are irrelevant to the whole proposition.

I conclude, Mr. President, by saying obviously, threats in those states are not relevant. We must be decisive. We need going for us international law, enhancement of our intelligence that the intrusive inspections and all of the trade accounts will give to us, so that when we strike, we will strike accurately and completely and bring the security to the world that this treaty attempts to promote.

Mr. HELMS. I yield such time as the Senator from Arizona may consume.

Mr. KYL. I will be very brief to a matter of news interest here in the Washington, DC, area. People might be watching this on a different channel of their television, viewing the ambulances and people attempting to assist,

and at least two people who appear to have been exposed to some kind of chemical agent. My understanding is that Senator LUGAR has just discussed this matter briefly, as well. This occurred at or near a B'nai B'rith facility here in Washington, DC.

I think that while neither side in this debate would want to use an unfortunate incident to bolster their case, and while our first concern ought to be for the people who may have been exposed to some agent here—and we all certainly hope there is no harm done and that if, in fact, it was not accidental that the perpetrators are dealt with in the appropriate fashion—I think it is also an inappropriate place to make the point that contrary to those who assert that the Chemical Weapons Convention deals with this problem, it does not. We should be very, very clear about that.

There are reasons for proponents to suggest that this Chemical Weapons Convention should be supported. There are arguments of opponents as to why that should not be the case. But I hope that we do not have people arguing on the floor of the Senate here that the Chemical Weapons Convention will deter terrorists, that somehow this will make us safer from terrorist attack, because it cannot fulfill that noble goal. We will literally be buying on to something that cannot come to pass if the treaty proponents try to sell it on that basis.

As a matter of fact, there is specific declassified intelligence information directly on this point. I will quote that before the chairman resumes his time. A declassified section of the Defense Intelligence Agency document of February 1996, with specific reference to the Tokyo subway attack by terrorists at that time said:

> Irrespective of whether the Chemical Weapons Convention enters into force, terrorists will likely look upon CW as a means to gain greater publicity and instill widespread fear. The March 1995 Tokyo subway attack by Aum Shinrikyo would not have been prevented by the Chemical Weapons Convention.

In May of 1996, another CIA report, a portion of which has been declassified, contains this statement:

> In the case of Aum Shinrikyo the Chemical Weapons Convention would not have hindered the cult from procuring the needed chemical compounds used in the production of sarin. Further, the Aum Shinrikyo would have escaped CWC requirement for an end use certification because it purchased the chemicals within Japan.

There are some additional things we can quote. The point I am making is that reasonable people can differ about the pros and cons of this treaty. That will be reflected in the vote on the treaty here. I hope that Americans do not get the idea that we will be safe from terrorist attack or even significantly safer by the adoption of this Chemical Weapons Convention. Terrorist attacks are not what it was designed to deal with. I hope that point is crystal clear.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Senator for that explanation. I think it was very timely.

I yield 12 minutes to the distinguished Senator from Oklahoma [Mr. INHOFE], following which I suggest we vote.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

The Senator from North Carolina has 4½ minutes remaining on the amendment.

Does the Senator wish to yield from your resolution time?

Mr. HELMS. In that case, I misunderstood the statement of the Parliamentarian.

The PRESIDING OFFICER. The Senator from North Carolina, do you yield the remaining time of the amendment or from the resolution time?

The Senator from Oklahoma is recognized for 12 minutes.

Mr. INHOFE. Thank you, Mr. President. I will probably not take the 12 minutes.

The Senator from Arizona is exactly right. I think even the strongest opponents of the ratification of the Chemical Weapons Convention have said this is not going to affect terrorist activities. Obviously, by the very title "terrorists" they are not going to be complying with this.

I have to say I feel the same way about these countries that we are discussing right now. The condition which is under debate at this time is whether or not to strike that portion with regard to Iran, Syria, Libya, North Korea, and China. It would be, if we were only concerned about those countries that have signed or have ratified or have an expressed intention to ratify, that would be very nice, because we would be talking about Canada, the Fiji Islands, Costa Rica, and Singapore, Iceland. That is not where the threat is. The threat is the rogue nations. That is what we are talking about right now.

I will for a moment bring this up to date by quoting a couple of things. General Schwarzkopf, during a press conference in Riyadh said: ,

> The nightmare scenario for all of us would have been to go through this [the Iraqi tank barrier], get hung up in this breach right here, and then have the enemy artillery rain chemical weapons down on the troops that were in the gaggle in the breach right here.

General Hughes said:

> In any attack in the south, Pyongyang could use chemical weapons to attack forces deployed near the DMZ, suppress allied air power, and isolate the peninsula from strategic reinforcement.

Four days ago in a Seoul, North Korea, newspaper there was an article quoting very high North Korean officials as saying they now have adequate chemical weapons to annihilate South Korea. This is going on as we speak. So we are talking about nations that are not going to be our friends. These are the ones that, whether they are signatories, or whether they ratify or not, it doesn't make too much difference. It tickles me when they talk about, "Russia is going to do that." Last night, I was on a talk show and we finally agreed that on the 1990 Bilateral Destruction Agreement, they have been found in noncompliance of that, and of the START I, of the Conventional Forces in Europe. Even though my opponent denied it was the INF, in fact, they were. In the 1995 Arms Control Disarmament Agency report, it says they were not in compliance with that; the ABM Treaty, they have not been in compliance with that.

But let's assume if a country like Russia doesn't comply when they ratify, what about these rogue nations? I can tell you for sure that those proponents of the ratification have gone to every extent possible to make it look like—or to make us believe that the Reagan administration, if they were here today, would be in support of this Chemical Weapons Convention. I can assure you that they would not. Coincidentally, I happened to be on a talk show—"Crossfire"—with a very fine gentlemen, Ken Adelman. He had been in the Reagan administration. We found out, after he gave his testimonial as to why we should ratify—and he admitted it was not verifiable nor is it global, but he still thought we should do it—that Mr. Adelman might be prejudiced by his membership on two boards of directors, the International Planning and Analysis Center and on Newmeyer and Associates. These companies, which he directs, have clients in many foreign countries, including China and Japan, and they represent companies that deal in chemicals such as those from the UpJohn Co. People say this is just chemicals. It is not just chemical companies we are talking about. In this chemical association that gets so much attention, it represents 192 chemical companies. These are the large ones, the giants. There are some 4,000 other companies, and you can expand it beyond purely chemical companies to some 8,000 other companies, most of whom are opposed to this, because they would be shut out in the competition.

I think the whole thing on this particular amendment is whether or not this would have any positive effect on the rogue nations if we should ratify the Chemical Weapons Convention. I don't think there is anybody here who is so naive to think that, voluntarily, if they are a part of it, they would reduce their chemical behavior. I think those of us in this room can argue and debate that.

So I go back to the people who are the real authorities. You have heard

Dick Cheney quoted several times on the floor, in his letter that we have quoted several times. He said, "Indeed some aspects of the present convention—notably, its obligation to share with potential adversaries, like Iran, chemical manufacturing technology that can be used for military purposes in chemical defense equipment—threaten to make this accord worse than having no treaty at all." That is Dick Cheney, not some guy that read a couple of articles and determined it was wrong. What is he talking about? He is talking about something that will be debated here shortly, and we will get into that in more detail. Part of article X says, "The technical secretariat shall establish not later than 180 days after entry into force of this contract, and maintain for the use of any requesting state party, a data bank containing freely available information concerning various means of protection against chemical weapons, as well as such information as may be provided by states' parties."

Well, I can remember in the Armed Services Committee when Schwarzkopf was here. I said:

General, you are in support of the Chemical Weapons Convention.

I read that, and then I will read a transcript, because I think everybody who might be basing their vote on what General Schwarzkopf said, here is a transcript from that meeting:

Senator INHOFE. Do you think it wise to share with countries like Iran our most advanced chemical defensive equipment and technology?

General SCHWARZKOPF. Our defensive capabilities?

Senator INHOFE. Yes.

General SCHWARZKOPF. Absolutely not.

Senator INHOFE. Well, I'm talking about sharing our advanced chemical defensive equipment and technologies, which I believe under article X (they) would be allowed to (get). Do you disagree?

General SCHWARZKOPF. As I said, Senator, I'm not familiar with all the details—you know—you know, a country, particularly like Iran, I think we should share as little as possible with them in the way of our military capabilities.

I am not critical of General Schwarzkopf. It is a very complicated thing. I don't know how many people read the whole thing. I haven't, but I read enough to know, as far as our treatment with rogue nations, I would not want to be ratifying this contract unless they ratified it. Then I would not trust them any more than we would trust Russia, and if they do ratify, I question if they will honor it.

One of the other conditions we are going to talk about is, should we do it, should we put in a requirement that they would have to ratify before we will. Well, we had that requirement 2 years ago when I voted against the START II treaty. They said we have to do it before Russia because they won't ratify unless we do. Guess what, Mr. President, they still haven't ratified.

Lastly, to kind of express the urgency of this, former Secretary of Defense, James Schlesinger, said, "To the extent that others learn from international sharing of information on chemical warfare defenses, our vulnerability is enhanced rather than diminished. Finally, this treaty in no way helps shield our soldiers from one of battlefield's deadliest killers. As indicated earlier, only the threat of effective retaliation provides such protection."

What he is saying there is not that we would use chemical weapons, but by the fact that we are not a party to this treaty is one that would at least offer some type of a deterrent. So I think, Mr. President, when you look and read of the hostility that is over there—James Woolsey said, in 1993:

More than two dozen countries have programs to research or develop chemical weapons, and a number have stockpiled such weapons, including Libya, Iran, and Iraq—

Three of the countries we are talking about:

The military competition in the always volatile Middle East has spurred others in the region to develop chemical weapons. We have also noted a disturbing pattern of biological weapons development following closely on the heels of the development of chemical weapons.

Mr. President, the threat is there, and we know that other countries can sell their technology, as well as their systems, to rogue nations. We know Russia has done this, to specifically Iran and other nations, not when they sold their technology, but also their equipment. So it is a very scary thing to think that we might be putting ourselves in a position that would increase our exposure to the threat of chemical warfare and would increase the proliferation of chemical weapons in the Middle East.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I believe time has expired. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. If the Chair will refresh my memory, a motion to table is not in order, is that correct?

The PRESIDING OFFICER. All time would have to be yielded back on the amendment in order for a motion to table to be in order. The unanimous-consent agreement does not appear to preclude a motion to table.

Mr. HELMS. How much time remains, Mr. President?

The PRESIDING OFFICER. Currently, the Senator from North Carolina would have 4 minutes 27 seconds on the amendment. The Senator from Delaware would have 2 minutes 37 seconds.

Who yields time?

Mr. BIDEN. Mr. President, how much time remains for me?

The PRESIDING OFFICER. The Senator controls 2 minutes 37 seconds.

Mr. BIDEN. I yield myself the remaining time. I will speak to a couple of points. With regard to Ken Adelman, I am sure our colleague from Oklahoma didn't mean to impugn his motivation by suggesting for whom he worked. I would not suggest that of Mr. Rumsfeld because of where he works now, that it caused him to have that view. Ken Adelman—although I disagree with him most of the time, he was an able member of the administration. He was viewed as a hawk at the time he was here. For the record, I am sure there was no intention to do that?

Mr. INHOFE. If the Senator will yield, I made it very clear before my remarks that I hold him in the highest of esteem. However, the fact remains that he does work for those companies that have an interest, and that could be a conflict of interest. I think that could be drawn by anyone.

Mr. BIDEN. I thank the Senator for making clear what he meant. I didn't think that's what he meant. I was hoping that is not what he meant, but it is what he meant. That could be said about almost everybody who testified before our committee, for and against this treaty, and I really, quite frankly, think that the leaders for and against this treaty in the last two administrations are men and women of integrity who would have no conflict. They are consistent with what they did within those administrations.

Let me point out a few things. It seems interesting to me that here we are, the very people—our very colleagues who want to have a provision saying that we want all these rogue nations in the treaty before we get into the treaty, argue in the alternative, that these nations in the treaty mean the treaty is worthless. Translated, very simply, they are not for this treaty under any circumstance, whether or not these nations are in the treaty or out of the treaty. I also point out that—in the interest of time, I will not be able to point it out in detail—every argument against this treaty made thus far on the floor today, I respectfully suggest, is made worse by not being in the treaty, by not having the treaty. I find it, quite frankly, interesting.

My time is up. I hope my colleague will not move to table. We agree not to attempt to amend any of these conditions. I hope we will have a vote up or down. Apparently, it is not in the agreement. If he chooses to do it, I guess he has the right.

Mr. HELMS. Mr. President, I shall not move to table. I will yield back such time as I may have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 47.

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

The assistant legislative clerk called the roll.

The result was announced—yeas 71, nays 29, as follows:

[Rollcall Vote No. 46 Ex.]

YEAS—71

Abraham	Feingold	Lugar
Akaka	Feinstein	McCain
Baucus	Ford	Mikulski
Biden	Frist	Moseley-Braun
Bingaman	Glenn	Moynihan
Bond	Gorton	Murray
Boxer	Graham	Nickles
Breaux	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Byrd	Hatch	Roberts
Chafee	Hollings	Rockefeller
Cleland	Inouye	Roth
Coats	Jeffords	Santorum
Cochran	Johnson	Sarbanes
Collins	Kennedy	Smith Gordon H
Conrad	Kerrey	Snowe
D'Amato	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Landrieu	Torricelli
Dodd	Lautenberg	Warner
Domenici	Leahy	Wellstone
Dorgan	Levin	Wyden
Durbin	Lieberman	

NAYS—29

Allard	Gramm	Mack
Ashcroft	Grams	McConnell
Bennett	Grassley	Murkowski
Brownback	Helms	Sessions
Burns	Hutchinson	Shelby
Campbell	Hutchison	Smith Bob
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thompson
Enzi	Kyl	Thurmond
Faircloth	Lott	

The amendment (No. 47) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Delaware.

Mr. BIDEN. Parliamentary inquiry.

The PRESIDING OFFICER. May we please have order.

Mr. BIDEN. Mr. President, I withdraw my inquiry I did not make.

The PRESIDING OFFICER. The Senator from Delaware withdraws his inquiry. Who seeks time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi, the majority leader.

Mr. LOTT. Mr. President, can I get time off the manager's time from the bill?

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

Mr. LOTT. I do still have my leader time. If I need that, we can use that also.

Mr. President, I had planned on and had hoped to be able to speak after all of the votes on the motions to strike because I did not in any way want to distract from those motions to strike. I have hopes that at least some of them might actually be defeated, particularly the one with regard to inspectors coming into the United States from some of the so-called rogue countries, but I think it is important we go ahead and state our positions at this point. Everybody has made their case. It is time to make decisions and to move on. I want to start by thanking Senator HELMS for his cooperation. Without his cooperation, we would not be here today. His cooperation guaranteed that we were able to develop a process that was fair, that allowed us to get S. 495 up and voted on last week, that all of the remaining issues in disagreement would have an opportunity to be debated, considered and voted upon.

He really has done an excellent job. There is no question that he continues to have great reservations about this legislation. But his efforts and the efforts of Senator KYL from Arizona have been nothing short of heroic. They have been tenacious. They have done their homework. They have made excellent statements both here and in our closed session earlier today. I think they should be commended for what they have done. In fact, their work and their success has contributed greatly to the likelihood that this treaty actually will pass. That had not necessarily been their intent, but they wanted to make sure, if it did pass, they wanted it to pass in the best possible form.

I also thank the Democratic leader for his courtesies as we worked through a very complicated unanimous-consent agreement. We were watched over very carefully by the Senator from West Virginia. I thank the Senator from Delaware, [Mr. BIDEN] for his cooperation and his patience, and I think the fact that we have all sort of kept cool heads and been careful how we proceeded has served us well.

Mr. President, our Constitution is unique in the power it grants the Senate in treaty making. Article II, section 2 states the President "shall have the power, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur."

The Senate's coequal treaty making power is one of our most important constitutional duties. All 100 Senators have approached this duty very seriously in examining the Chemical Weapons Convention, as we should. We have participated in and we have listened to hearings laying out the arguments for and against the convention. We have looked closely at many provisions of the convention and have sought the advice and counsel of experts and former policymakers. We read many articles and we have heard the arguments making the case for and against it.

Before addressing my views on the convention itself, I should like to share with my colleagues a brief history of the Senate's action on this convention, how we got to where we are today.

The Chemical Weapons Convention was signed by the United States as an original signatory on January 13, 1993, in the last days of President Bush's administration. For reasons that remain unclear, it was 10 months before President Clinton sent the convention to the Senate. In his transmittal letter, dated November 23, 1993, President Clinton wrote:

> I urge the Senate to give early and favorable consideration to the convention and to give advice and consent to its ratification as soon as possible in 1994.

Let me remind my colleagues that for the next 11 months, until the 103d Congress adjourned on December 1, 1994, the Senate majority leader was George Mitchell and the chairman of the Foreign Relations Committee was Claiborne Pell.

Despite Democratic control of the White House and the Senate, the Senate did not consider the Chemical Weapons Convention in 1994.

In late 1995, Senate Democrats began a filibuster on the State Department authorization bill to force action on the CWC. On December 7, 1995, an agreement was reached providing for the convention to be reported out of the Foreign Relations Committee by April 30, 1996. The committee honored that agreement, and the convention was placed on the Executive Calendar.

That is where matters stood when I became majority leader on June 12, 1996. Only 6 days later, before I had a chance to get my sea legs at all, there began a filibuster once again by the Senate Democrats to force Senate action on the convention.

To allow critical national defense legislation to proceed, we worked with Senators on both sides of the aisle, and again we reached an agreement guaranteeing a vote by September 13, 1996.

In the weeks preceding the vote, opponents and proponents of the convention made their case to Senators. On September 6, 1996, I requested the declassification of certain key judgments of the intelligence community relating to key aspects of the convention. On September 10, the administration partially complied with that request, and certain intelligence judgments were made public. I ask unanimous consent that the exchange of letters on the intelligence judgments be printed in the RECORD.

Mr. President, I understand the Government Printing Office estimates it will cost $1,288 to print these letters in the RECORD.

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

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, September 6, 1996.

President WILLIAM JEFFERSON CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to ask your cooperation and support for Senate efforts to obtain information and documents directly relevant to our consideration of the Chemical Weapons Convention.

As you know, the Senate is currently scheduled to consider the Convention on or before September 14, 1996 under a unanimous consent agreement reached on June 28, 1996. Immediately prior to the Senate agreement on the Convention, I stated, "With respect to the Chemical Weapons Convention, the Majority Leader and the Democratic Leader will make every effort to obtain from the administration such facts and documents as requested by the Chairman and ranking member of the Foreign Relations Committee, in order to pursue its work and hearings needed to develop a complete record for the Senate . . ."

I regret to inform you that your administration has not been fully cooperative in Senate efforts to obtain critical information. Chairman Helms wrote to you on June 21, 1996—prior to the Senate setting a date for a vote on the Convention—and asked eight specific questions. Chairman Helms also requested the provision and declassification of documents and a cable relating to critical issues of Russian compliance with existing chemical weapons arms control agreements and with the Chemical Weapons Convention.

On July 26, 1996, having received no response to his earlier letter, Chairman Helms reiterated his earlier request and asked additional questions concerning the apparent Russian decision to unilaterally end implementation of the 1990 U.S.-Russian Bilateral Destruction Agreement on chemical weapons. Chairman Helms also asked for specific information and documents concerning Russian conditions for ratification of the Chemical Weapons Convention, as well as other information important to our consideration of the Convention. While Chairman Helms did receive responses to his letters on July 31 and on August 13, his request for declassification of documents was refused and the answers to many of his questions were incomplete.

During a Senate Select Committee on Intelligence hearing on June 17, 1996, Senator Kyl asked for a specific document—a cable written in Bonn, Germany by Arms Control and Disarmament Agency (ACDA) Director Holum concerning current Russian government positions on the Bilateral Destruction Agreement, ratification of the Chemical Weapons Convention and on U.S. assistance for the destruction of Russian chemical weapons. On numerous occasions, Senator Kyl was told the document did not exist. Finally, on July 26, Senator Kyl was able to see a redacted version of the document under tightly controlled circumstances but the document has not been made available to Chairman Helms or other Senators.

Mr. President, the unanimous consent agreement of June 28, 1996, was entered into in good faith, and based on our understanding that the administration could and would be fully forthcoming in the provision of information and documents to enable the Senate to fulfill its constitutional responsibilities. Numerous judgements of the United States intelligence community deserve as wide a circulation as possible—particularly since they are distinctly different than some public statements made by officials of your Administration concerning the Convention.

Accordingly, I respectfully request that you reconsider your refusal to declassify critical documents and consider the declassification of important intelligence community judgements—consistent with the need to protect intelligence sources and methods. Specifically, I request that you act immediately to declassify the May 21, 1996, cable written by ACDA Director Holum and the July 8, 1996, letter from Russian Prime Minister Chernomyrdin to Vice-President Gore, and consider immediately declassification of the paragraphs from which the attached statements are excerpted—all drawn from documents produced by the Central Intelligence Agency and the Defense Intelligence Agency on the Russian chemical weapons program, the verifiability of the Chemical Weapons Convention, the effect of the Convention on the chemical weapons arsenals of rogue states, and the relevance of the Convention to acts of terrorism committed with chemical weapons.

I make these requests to enable the Senate to fully prepare for its consideration of the Chemical Weapons Convention. I am certain you would agree it is necessary for the Senate to have complete and usable information in order fulfill our constitutional obligations and to responsibly meet the terms of the current unanimous consent agreement. Because the unanimous consent agreement calls for the Senate to vote on the Chemical Weapons Convention by September 14, 1996, I respectfully request that you respond to my declassification requests no later than the close of business on Tuesday, September 10, 1996. With best wishes, I am

Sincerely,

TRENT LOTT.

THE WHITE HOUSE,
Washington, September 10, 1996.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: The President has asked that I respond to your letter regarding Senate consideration of the Chemical Weapons Convention (CWC).

On behalf of the President, I would like to thank you for your cooperation and leadership in scheduling a Senate vote on this vital treaty which, as you know, has been before the Senate since November 1993. The CWC, which was negotiated under President Reagan and concluded and signed under President Bush, is an important element of our bipartisan efforts over the years to address two of the most important threats facing us in the post Cold War era: the proliferation of weapons of mass destruction and terrorism.

I was concerned by your letter and regret that you believe that the Administration has not been fully cooperative with Senate efforts to obtain critical information. I want to assure you that the Administration remains eager and committed to continuing to assist the Senate in developing a complete record for its consideration prior to floor action on the CWC, as stated in the June 28, 1996, unanimous consent agreement.

During the almost three years the Convention has been before the Senate, the Administration has worked very hard to ensure that the Senate has been fully informed on the Convention and that all its questions have been answered. Our efforts to inform the Senate have included testimony at 13 hearings, including testimony by many Cabinet officials. We have conducted dozens of briefings for members and staff by representatives of key agencies, including yesterday's productive session with the Arms Control Observer Group. The President has appointed two Special Advisors on the CWC, to address Senate questions and concerns as part of the ratification process. Former Representative Martin Lancaster served in this capacity in 1995 and Dr. Lori Esposito Murray currently holds this position. On behalf of the President, they have personally briefed every Senate office, offered individual briefings to every member of the Senate and personally briefed over 40 Senators.

In addition, we have answered over 300 questions for the record. Senator Helms has asked many of these questions and we have always responded to his concerns. For example, we have not only provided Senator Helms our database of companies likely to be affected by the CWC, but we have also provided him a list of chemical companies we have determined unlikely to be affected by the CWC. Overall, the Administration has provided the Senate with over 1500 pages of information on the CWC—over 300 pages of testimony, over 500 pages of answers to Senate letters and reports, over 400 pages of answers to Senate questions for the treaty record and over 300 pages of other documentation.

With regard to Senator Helms' most recent letters, the President and I both personally responded to Senator Helms, first on July 31 and then again on August 13; these responses included detailed attachments that answered a series of specific questions asked by Senator Helms.

The Administration has repeatedly offered to make relevant classified information available to the Senate through classified briefings and reports. I explained to Senator Helms in my response to his most recent letters that, while I regretted we could not declassify the documents he requested, we remained eager to brief the Senator and any of his colleagues, as well as cleared staff, at the earliest possible time, both on those documents as well as on other concerns. Such a briefing was provided to Senator Kyl but, to date, Senator Helms has not responded to these offers.

We have carefully reviewed your request for declassification of the May 21, 1996 cable written by ACDA Director Holum, the July 8, 1996 letter from Russian Prime Minister Chernomyrdin and selected paragraphs from various intelligence community documents. I regret that we cannot declassify the May 21, 1996 Holum Cable or the letter from Russian Prime Minister Chernomyrdin to Vice President Gore because these documents have been properly classified pursuant to E.O. 12958; they contain sensitive diplomatic information regarding high-level, ongoing negotiations, the disclosure of which may affect our ability to negotiate in confidence. In addition, the correspondence you requested is between the highest levels of the United States and Russian governments, and was exchanged with the expectation that it would be kept in the strictest confidence. As you know, an essential element of the Executive Branch's conduct of foreign relations is the protection of the confidentiality of high level, sensitive diplomatic discussions and correspondence.

After a careful review of the paragraphs of the intelligence documents that you requested be declassified, we have determined they were properly classified. However, we have been able to declassify a portion of the material without risk to sources and methods and it is attached. The sentences and paragraphs that are still classified remain so because they contain information which could place sources and methods at risk. In several cases, declassification of requested materials also would reveal information about U.S. force vulnerabilities. The paragraphs from which most of the judgments were extracted remain classified because it is difficult to identify clearly the source paragraphs. Therefore, granting paragraph

release authority could inadvertently permit release of intelligence which would be damaging to declassify.

I would like to reaffirm personally the Administration's commitment to brief you or any other Senator and cleared staff on the documents discussed above under appropriate classification at any time before the Senate debate on the CWC. As you know, a high-level Administration team briefed Senators and staff on the CWC, including many of the issues raised in your letter, on Monday, September 9, 1996. We remain committed to continuing to assist the Senate as it prepares to vote on advice and consent to ratification on this vital Convention.

As part of this continuing effort, I have attached a detailed response which includes the declassified material.

Sincerely,

ANTHONY LAKE,
Assistant to the President for National Security Affairs.

RESPONSES TO ISSUES RAISED BY MAJORITY LEADER LOTT

The issues addressed in the attachment to your letter concern chemical weapons proliferation challenges we must address, with or without the CWC. The CWC provides concrete measures that will raise the costs and risks of engaging in CW-related activities. The CWC also will improve our knowledge about CW activities worldwide. This is why the CWC has been strongly supported by both President Bush and President Clinton.

Since the CWC was submitted to the Senate in 1993, the Intelligence Community has kept the Senate fully informed of its judgments regarding the Convention. During the past three years, the Intelligence Community has produced two NIEs and numerous other reports, testified in numerous public and executive session hearings, answered dozens of intelligence questions for the record and provided a number of briefings on precisely the issues you raise in the attachment to your letter, as well as many others.

Intelligence Community judgments on the CWC are not at odds with Administration policy. In fact, Intelligence Community judgments play an integral role in the formation of policy regarding the Chemical Weapons Convention. The following responses regarding the issues raised in the attachment to your letter may help clarify this.

1. NOVEL AGENTS

New chemicals of concern and novel agents are covered under the CWC; it is incorrect to assert that because an agent is not on the Schedules it is not subject to the CWC. The CWC captures new chemicals of concern and novel agents under the definition of a "chemical weapon" and prohibits the development, production, acquisition, stockpiling, retention, use and direct or indirect transfer to anyone of chemical weapons. Concerns that new chemicals of concern and novel agents were being used to violate the CWC would provide a basis for bilateral consultation and challenge inspection under Article X of the Convention. It would not be necessary to show that such chemicals are listed in the Schedules of the Convention to exercise this option.

Furthermore, the CWC explicitly provides for expanding the lists of chemicals subject to declaration and verification as new CW agents are identified and to improve verification procedures and equipment as new technology emerges and experience is gained.

As regards our chemical defense capabilities, the Department of Defense Counterproliferation Program is, with Congress' support, already aggressively pursuing an effective response to ensure that our troops are the best protected and best equipped fighting force for operations in a nuclear, biological, or chemical environment. The National Defense Authorization Act for FY 94 led to the formation of the Joint Nuclear Biological and Chemical (NBC) Defense Board, the Joint Services Integration Group and the Joint Services Material Group. These boards, which have representatives from the Services, Joint Staff and OSD, are working to identify the needs of the military for chemical/biological defense and are providing input to the Defense Acquisition Board process through the Secretary of Defense.

The U.S. military is well aware that it may be called upon to operate in a hostile environment in which chemical weapons may be used or threatened to be used. Though U.S. chemical equipment is second to none, we understand the need to continually improve our capabilities. Through the Defense Acquisition Board process, the military is taking steps to ensure these improvements continue. The Administration's budget request for FY 97 for our chemical defense programs is $505 million.

In this context, the following paragraph from NIE 95-9/I of May 1995 is hereby declassified: "Production of new binary agents would be difficult to detect and confirm as a CWC-prohibited activity."

2. RUSSIAN INTENTIONS REGARDING CHEMICAL WEAPONS

It is important to keep in mind, when discussing Russian intentions regarding chemical weapons, that there is not yet in force a treaty obligation prohibiting the possession of chemical weapons against which we can measure compliance. The CWC will establish such a prohibition and, most importantly, the new tools to pursue any concerns we may have about suspected CW activities, whether in Russia or any other State Party. As the Intelligence Community has testified, the CWC will provide us with access to information not otherwise available which will help us in our efforts to detect, deter and, if necessary, punish violations of the CWC.

Regarding the views of the Russian leadership, President Yeltsin and other senior government officials have repeatedly expressed support for the CWC. We will expect Russia and all other Parties to adhere to all the Convention's provisions including those concerning CW development and production. The Russian Government has recently reaffirmed its commitment to become an original Party to the CWC and announced it is seeking speedy submission of the Convention to the Parliament for ratification.

In this context, the following paragraph from NIE 95-9/I of May 1995 is hereby declassified:

"President Yeltsin has publicly endorsed CW disarmament and supported ratification and implementation of CW arms control agreements to which Russia is a signatory. The extent to which Yeltsin has attempted to enforce his will on the bureaucracy is not clear. He may not be aware of the scope of ongoing CW activities, or if he is aware, he may be unable to control them. We cannot exclude the possibility that Yeltsin approves of an offensive CW capability and will support a covert program once the CWC enters into force. He may accept the military's argument about the need to retain a CW capability. Moreover, being subjected to far more bureaucratic pressure to sustain the program than to do away with it, he may find it easier to give way to military arguments."

It should be noted, however, that detailed information on the views of key individuals is limited and insufficient to document with confidence their current personal and professional positions for maintaining CW programs.

3. VERIFICATION

No treaty is 100 percent verifiable. While the Intelligence Community has indicated that CW development and production is and will remain difficult to distinguish from legitimate commercial activities, they have simultaneously noted the importance of acquiring the CWC as a new collection tool to aid their efforts to monitor CW proliferation, which we must do, with or without the CWC.

The CWC's verification provisions constitute the most comprehensive and intrusive verification regime every negotiated, covering virtually every aspect of a CW program, from development through production and stockpiling.

The CWC's declaration provisions will improve the U.S. ability to obtain information about other countries' CW efforts. These provisions will facilitate detection and monitoring of prohibited activities by providing the U.S. access to certain information about declarations of CW production facilities and storage sites as well as relevant chemical industry facilities and activities.

The CWC's inspection provisions permit access to both declared and undeclared facilities and locations, thus making clandestine CW production and stockpiling more difficult, risky and expensive. Routine inspections will enhance deterrence and detection of clandestine product by monitoring activities and relevant chemical industry facilities. These inspections will increase the cost and the risk of carrying out illicit chemical weapons activities.

Challenge inspections will further enhance deterrence and detection of prohibited activities by providing States Parties with the right to request an international inspection at any facility or location in another State Party in order to clarify and resolve a potential compliance concern. As the scope and size of a program increases, it is more likely that illicit activities will be detected. Challenge inspections are but one part of the CWC's comprehensive verification regime which, in its totality, complements our ongoing intelligence monitoring effort in this area. As former DCI Woolsey testified before the Senate Foreign Relations Committee on June 23, 1994:

"The CWC will, however, strengthen our ability to deal with the problem that we confront with or without the Convention: the requirement to discover what states are developing and producing chemical weapons when these activities are difficult to distinguish from legitimate commercial endeavors. The isolation and adverse attention that nonsignatories will draw upon themselves may spur greater multinational cooperation in attempting to halt offensive CW programs.

"In sum, what the Chemical Weapons Convention provides the Intelligence Community is a new tool to add to our collection tool kit. It is an instrument with broad applicability, which can help resolve a wide variety of problems. Moreover, it is an universal tool which can be used by diplomats and politicians, as well as intelligence specialists, to further a common goal: elimination of the threat of chemical weapons."

In this context, the following paragraphs from NIE 93-32J/I of August 1993 are hereby declassified:

"The capability of the Intelligence Community to monitor compliance with the

Chemical Weapons Convention is severely limited and likely to remain so for the rest of the decade."

"The key provisions of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation determined to preserve a small, secret program using the delays and managed access rules allowed by the convention."

4. TERRORISM

The CWC will increase the difficulty for terrorists and proliferators of acquiring chemical weapons and significantly improve our law enforcement ability to investigate and prosecute chemical terrorists even before chemical weapons are used. Japan serves as an example of the importance of this treaty and its implementing legislation in combating the terrorist threat. Within 10 days of the poison gas attacks in the Tokyo subways, the Japanese enacted the CWC implementing legislation. The Japanese completed ratification of the CWC a month later.

No treaty is foolproof. However, the CWC and its implementing legislation will provide significant benefits in dealing with the threat of chemical terrorism. Implementing legislation will strengthen our legal authority to investigate and prosecute persons who commit acts prohibited by the treaty. It will also make the public more aware of the threat of chemical weapons and of the fact that the acquisition of such weapons is illegal .

The following are among it significant benefits:

Investigation. The proposed U.S. implementing legislation contains the clearest, most comprehensive and internationally recognized definition of a chemical weapon available. The definition contained in the implementing legislation will enable an investigator to request a search warrant on the basis of reasonable suspicion of illegal chemical weapons activity (such as production of chemical weapons agent), rather than suspicion of an attempt or conspiracy to use a weapon of mass destruction, as under current U.S. law. By providing law enforcement officials and prosecutors an actionable legal basis for investigating the development, production, transfer of acquisition of chemical weapons, CWC implementing legislation improves prospects for detection, early prosecution and possibly even prevention of chemical terrorism in the United States.

Prosecution. The proposed U.S. implementing legislation will also aid prosecution. Because possession of a chemical weapon (whether or not it is intended to be used) would be prohibited under the Convention, it would also be illegal under the CWC implementing legislation and thus would provide a sufficient basis for prosecution. Currently, prosecutors must rely on legislation intended for other purposes, such as a law against conspiracy to use a weapon of mass destruction.

Penalties. Under the proposed U.S. implementing legislation, any person who knowingly engages in prohibited CW-related activities far short of actual use of a chemical weapon could be subject to the maximum punishment of life in prison or any term of years. In contrast, under existing U.S. legislation, equivalent penalties require proof of use or an attempt or conspiracy to use a weapon of mass destruction. Thus, it would be difficult under current law for prosecutors to prove that a violation of the law has occurred unless a scheme to use chemical weapons is well advanced.

Trade Controls. The proposed U.S. implementing legislation would also supplement existing export/import control laws and regulations by strictly controlling the import and export of those chemicals posing the greatest risk (listed in Schedule 1 of the CWC) and also regulating the production, acquisition, retention, transfer or use of such chemicals within the U.S. Fines of up to $50,000 could be imposed for unlawful production, acquisition, transfer, etc. of such chemicals.

Emergency Authority. The proposed U.S. implementing legislation contains authority to seize, forfeit and destroy chemical weapons. This important provision protects the constitutional rights of property owners while allowing law enforcement officials to seize and destroy a chemical weapon under exigent circumstances (i.e. where harm is imminent or likely). This provides additional authority to prevent a potential catastrophe and save lives.

Public Awareness. Tips by concerned private citizens are the lifeblood of successful police investigations. Ratification of the CWC and enactment of its implementing legislation will ensure, due to reporting and inspection requirements and penalties for violations, that private companies and concerned citizens are more alert to and more likely to report any suspected chemical weapons-related activities.

The nonproliferation provisions of the CWC will deny terrorists easy access to chemical weapons by requiring Parties to eliminate national stockpiles and by controlling international transfers of certain chemicals than can be used to make chemical weapons. In particular, the CWC requires Parties to cease transfers of certain CW agents and CW precursor chemicals to non-Parties and restrict such transfers to Parties. In addition, reporting is required on anticipated production levels of Schedule 1, 2 and 3 chemicals and anticipated imports and exports of Schedule 1 and 2 chemicals. These measures will help restrict access to key chemicals, while also helping to alert law enforcement and other government officials to suspicious activities.

Finally, one of the key tools in combating terrorism is early intelligence. The CWC will provide access to international declaration and inspection information and will strengthen the intelligence links between the United States and the international community that will help us detect and prevent chemical attacks. By tying the United States into a global verification network and strengthening our intelligence sharing with the international community this treaty can be an early warning that is essential for combating terrorism.

In this context, the following paragraph from DIA PC-1563-4-96 of February 1996 is hereby declassified:

"Irrespective of whether the CWC enters into force, terrorists will likely look upon CW as a means to gain greater publicity and instill widespread fear. The March 1995 Tokyo subway attack by the Aum Shinrikyo would not have been prevented by the CWC."

I would also invite your attention to the following conclusions concerning the impact of the CWC contained in the May 1996 report issued by the Director of Central Intelligence Interagency Committee on Terrorism entitled "Aum Shinrikyo: Insights to the Chemical and Biological Terrorist Threat":

"The Chemical Weapons Convention (CWC) is designed to regulate and monitor the procurement, production, and use of some chemicals used in CW production with varying degrees of intrusiveness, depending on which of the three Schedules of Chemicals a compound is listed. Within five years of the CWC's entry into force, transfer of all Schedule 1 and 2 chemicals to non-States Party will be banned, and transfer of Schedule 3 chemicals to non-States Party will require end-use certificates. In addition, all sites within a State Party are subject to challenge inspections initiated by another State Party with substantive information that illegal activities are taking place by the government or any other group. The Convention's provisions probably would make it more difficult and costly for terrorists to acquire CW by increasing the risk of detection, but a determined group could circumvent the provisions.

"The CWC mandates that each State Party establish national laws to prohibit anyone on its territory or any citizen abroad from developing, producing, stockpiling, acquiring or using CW. Each State Party must develop and pass national legislation to ensure the implementation of all CWC obligations and provisions. Depending on the quality of the legislation and its enforcement, the institution of these laws would help establish a political and legal basis for the prosecution of a terrorist group.

"In the case of Aum Shinrikyo, the CWC would not have hindered the cult from procuring the needed chemical compounds used in its production of sarin. Further, the Aum would have escaped the CWC requirement for an end-use certification because it purchased the chemical within Japan."

5. ROGUE STATES

The Administration recognizes the possibility that not all States Parties may comply with their CWC obligations immediately upon the Convention's entry into force. However, information acquired through the CWC's declaration and inspection provisions will supplement our national intelligence resources and place us in a better position than we are now to deter and detect clandestine chemical weapons programs. Moreover, unlike any previous arms control agreement, the CWC provides a range of punitive measures including trade sanctions that can be imposed against a Party to the treaty who fails to meet its treaty obligations.

In short, as former DCI Woolsey and other intelligence officials have pointed out, the CWC will provide a useful tool in our inventory of means to stem the worldwide expansion of chemical weapons capabilities and to assist in monitoring CW programs worldwide, whether inside or outside the CWC.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, January 8, 1997.

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

DEAR MR. PRESIDENT: Following our phone conversation, I arranged a meeting later today with your Acting National Security Adviser, Sandy Berger, to discuss the Chemical Weapons Convention. Before that meeting however, I wanted to inform you personally of how your Administration's actions on critical arms control issues have complicated efforts to work cooperatively.

As you know, many Members of the 104th Congress have expressed concern over the security implications of certain arms control positions taken by your Administration. The security concerns are aggravated by your Administration's unwillingness to seriously consider our views on the appropriate Constitutional role of the Senate in providing advice and consent on treaties. I would point to three important issues: demarcation limits to the Anti-Ballistic Missile Treaty of

1972 (ABM Treaty); multilateralization of the ABM Treaty; and flank limits to the Conventional Armed Forces in Europe Treaty of 1990 (CFE Treaty). In each of these cases, your Administration has negotiated substantive modifications of the treaties, and then taken questionable legal positions that render Senate advice and consent an option that can be ignored rather than a constitutional obligation that must be fulfilled.

Congress has legislated on the proposed demarcation limits and the proposed multilaterization of the ABM Treaty. Section 232 of the National Defense Authorization Act for Fiscal Year 1995 (P.L. 103-337) addresses both issues. It states "the United States shall not be bound by any international agreement entered into by the President of the United States that would substantively modify the ABM Treaty unless the agreement is entered into pursaunt to the treaty making power of the President under the Constitution."

Section 235 of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106) addresses demarcation and states "any international agreement that would limit the research, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles in a manner that would be more restrictive than the compliance criteria specified in paragraph 1 should be entered into only pursuant to the treaty making powers of the President under the constitution."

The position of Congress concerning the substantive modifications your Administration has sought to the ABM Treaty is clear: Senate advice and consent is needed for their entry into force. Despite this clear position, your Administration continues to argue that Senate advice and consent is not necessary in the case of multilateralization, and is but one among several options you might choose in the case of demarcation. This is unacceptable.

With specific reference to the Agreed Statement on Demarcation reached last summer, section 406 of the Department of State and Related Agencies Appropriations Act, 1997 (P.L. 104-208) prohibits expending funds on the Standing Consultative Commission "unless the President provides to the Congress a report containing a detailed analysis of whether * * * the Agreed Statement regarding Demarcation agreed to by the Standing Consultative Commission on June 24, 1996 * * * will require the advice and consent of the Senate of the United States." The report submitted on your behalf did not answer this question.

Finally, the May 31, 1996 Conventional Forces in Europe flank agreement contains negotiated amendments and significant changes to the 1990 CFE Treaty. Yet, again your Administration has taken the legal position that Senate advice and consent is not necessary.

Mr. President, I have pledged to work with you in a bipartisan fashion on a wide range of challenges facing our country. Nowhere is such cooperation more important than in foreign policy and national security. But bipartisanship must be a two-way street. Your Administration has now re-started a public campaign to gain Senate advice and consent for the Chemical Weapons Convention. As you seek bipartisan cooperation, you must understand our expectation for such cooperation on ABM multilateralization, ABM demarcation, and CFE flank limits.

Senate advice and consent arms control treaties after their negotiation and after their substantive modification is not an option—it is a requirement of our Constitution. I am sure you understand that it will be very difficult to explore the possibility of Senate action on the Chemical Weapons Convention without first addressing legitimate security and Constitutional concerns on other important arms control issues. I stand ready to work with you and your national security team in a comprehensive manner to address arms control issues in the 105th Congress. With best wishes, I am,

Sincerely,

TRENT LOTT.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, March 18, 1997.

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

DEAR MR. PRESIDENT: As you know, we have been working in good faith to try to establish a process under which the Senate might consider a resolution of ratification for the Chemical Weapons Convention (CWC).

As we consider the next steps in this process, I want to remind you of two problems that remain unresolved. First, on January 8, 1997, I wrote to you expressing concerns about your administration's approach to a number of critical arms control issues, including demarcation limits and multilateralization of the Anti-Ballistic Missile Treaty of 1972 (ABM Treaty) and about the flank limits to the Conventional Armed Forces in Europe Treaty of 1990 (CFE Treaty). To date, I have not received a response. Each of these significant treaty modifications are subject to the constitution's shared treaty making power and, accordingly, cannot enter into force until receiving the advice and consent of the United States Senate.

Second, I have repeatedly pointed out that the CWC is currently under consideration by the Committee on Foreign Relations. Accordingly, it is essential that you and your administration honor the publicly-stated commitments to work closely and expeditiously with Chairman Helms on issues before the Committee, including the presentation of a plan to reorganize U.S. foreign affairs agencies. Until that occurs, Chairman Helms has made it clear to me that he is unlikely to consider next steps in the CWC process.

As I have said privately and publicly, bipartisanship must be a two-way street. I look forward to hearing from you soon on these important issues. With best wishes, I am,

Sincerely,

TRENT LOTT.

THE WHITE HOUSE,
Washington, March 25, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: The President has asked me to reply to your letter concerning the Chemical Weapons Convention (CWC) and the role of the Senate under the Constitution in giving its advice and consent to treaties. Our staffs have held some discussions on this matter, but I want to address in more detail each of the three treaty issues you raise in the letter: the CFE flank agreement, ABM multilateralization and ABM/TMD demarcation.

CFE FLANK AGREEMENT

On May 31, 1996, the United States, our NATO allies, Russia and the 13 other States Party to the CFE Treaty approved a document in Vienna culminating more than two years of intensive negotiations on the CFE flank issue. The centerpiece of this agreement was a realignment of the CFE map (depicting the territory of the former USSR in the CFE area), which has the effect of reducing the size of the flank zone. The CFE parties had deliberately not included this map as part of the Treaty when it was signed in 1990, and the Bush Administration did not submit the map to the Senate in 1991 as part of the formal documents for advice and consent. Accordingly, legal counsels in the Clinton Administration's national security agencies determined last year that a change to the map does not constitute a formal amendment to the Treaty.

At the same time, we determined that a realignment of the map did constitute a change in a "shared understanding" formed with the Senate at the time the Senate gave its advice and consent to the Treaty. That "shared understanding" established that the Treaty would be applied and interpreted on the basis of the original map. According to the 1988 "Biden Condition" on treaty interpretation (which was attached by the Senate to its resolution of ratification for the INF Treaty), Senate consent or congressional approval is required to change a shared understanding.

When the Administration submitted the CFE flank document for legislative approval last August, we were faced with a time-urgent situation: by its own terms, the document required all States parties to confirm their approval by December 15; yet very little time remained before the adjournment *sine die* of the 104th Congress. In this circumstance we chose to seek statutory approval by both houses, as is explicitly permitted under the Biden Condition.

We now face a complex situation. At the Lisbon OSCE Summit in December, the 30 States party to the CFE Treaty agreed to extend the deadline for confirmation of approval to May 15, 1997. In recent months, it has become evident that the flank agreement underpins the new negotiations in Vienna on "CFE adaptation," which in turn underpins NATO's efforts to define the new security environment in Europe as NATO enlarges. In addition, both adaptation of the CFE Treaty and the admission of new states to NATO will be effected through agreements that will be submitted for the advice and consent of the Senate. The situation and timing is therefore different from when the Administration submitted the CFE flank agreement for legislative approval last August. Accordingly, the Administration is prepared, without prejudice to its legal position vis-a-vis the approval options we believe are available to us, to seek Senate advice and consent to the flank Document provided the Senate will act on this crucial matter before May 15.

MOU ON ABM SUCCESSION

As noted in the President's November 25, 1996 report to Congress submitted in accordance with Section 406 of the FY 1997 State Appropriations Act (the "Livingston Report"—hereafter referred to as "the Report"), executive agreements recognizing the succession of new States to the treaty rights and obligations of their predecessors have traditionally not been treated as treaty amendments or new treaties requiring Senate advice and consent. Rather, they have

been treated as the implementation of existing treaties, which is recognized as an exclusively Presidential function under the Constitution. The Report elaborates the specific reasons why this conclusion applies in the case of the June 24, 1996 Memorandum of Understanding (MOU) on ABM Succession reached ad ref between the United States, Russia, Ukraine, Belarus and Kasakstan in the Standing Consultative Commission (SCC). It also explains why the MOU does not constitute a substantive modification of the ABM Treaty.

In dealing with matters of succession, a key U.S. objective has been to reconstitute the original treaty arrangement as closely as possible. This was true with respect to the elaboration of the ad ref MOU as well and, accordingly, the MOU works to preserve the original object and purpose of the ABM Treaty. We hope that the breakthrough on ABM/TMD demarcation achieved at the Helsinki Summit will set the stage for a meeting at which all parties would sign this MOU. The Administration continues to believe that the agreement does not require the advice and consent of the Senate, or any other form of congressional approval, to enter it into force.

THE WHITE HOUSE,
Washington, April 24, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: During Senate ratification proceedings on the Chemical Weapons Convention (CWC), concerns have been raised over Article X, which provides for certain types of defensive assistance in the event that a State that has joined the treaty and renounced any chemical weapons (CW) capability is threatened with or suffers a chemical weapons attack, and Article XI, which encourages free trade in non-prohibited chemicals among states that adhere to the CWC. Some have suggested that these Articles could result in the CWC promoting, rather than stemming, CW proliferation despite States Parties' general obligation under Article I "never under any circumstances . . . to assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention."

To respond to these concerns, the Administration has worked closely with the Senate to develop conditions relating to both Articles that have now been incorporated in the resolution of ratification (Agreed Conditions #7 and 15). These two conditions would substantially reinforce and strengthen the treaty by: prohibiting the United States under Article X from (a) providing the CWC organization with funds that could be used for chemical weapons defense assistance to other States Parties; and (b) giving certain states that might join the treaty any assistance other than medical antidotes and treatment; and requiring the President to (a) certify that the CWC will not weaken the export controls established by the Australia Group and that each member of the Group intends to maintain such controls; (b) block any attempt within the Group to adopt a contrary position; and (c) report annually as to whether Australia Group controls remain effective.

With respect to the latter condition, I am pleased to inform you that we have now received official confirmations from the highest diplomatic levels in each of the 30 Australia Group nations that they agree that the Group's export control and nonproliferation measures are compatible with the CWC and that they are committed to maintain such controls in the future.

While supporting these guarantees and safeguards, you expressed the concern on Sunday that nations might still try to use Article X or XI to take proscribed actions that could undercut U.S. national security interests, notwithstanding the best efforts of U.S. diplomacy to prevent such actions. I am, therefore, prepared to provide the following specific assurance related to these two Articles:

In the event that a State Party or States Parties to the Convention act contrary to the obligations under Article I by:

(A) using Article X to justify providing defensive CW equipment, material or information to another State Party that could result in U.S. chemical protective equipment being compromised so that U.S. warfighting capabilities in a CW environment are significantly degraded;

(B) using Article XI to justify chemical transfers that would make it impossible for me to make the annual certification that the Australia Group remains a viable and effective mechanism for controlling CW proliferation; or

(C) carrying out transfers or exchanges under either Article X or XI which jeopardize U.S. national security by promoting CW proliferation:

I would, consistent with Article XVI of the CWC, regard such actions as extraordinary events that have jeopardized the supreme interests of the United States and therefore, in consultation with the Congress, be prepared to withdraw from the treaty.

Sincerely,

BILL CLINTON.

Mr. LOTT. On September 12, the day the Senate was scheduled to begin debate on the convention, Secretary of State Christopher called me and asked that the vote be canceled. I quizzed him. I wanted to make sure that was what the administration was asking and that I would be able to come out to the floor of the Senate and explain that is why it was being done. It was canceled because it was clear, in my opinion, the convention was likely to be rejected at that time by the Senate.

I acceded to the Secretary's request. We canceled the vote, and it went back to the Foreign Relations Committee calendar at the end of the 104th Congress.

In January of this year, the President and his national security advisers made it clear that the Chemical Weapons Convention remained a top priority. On January 8, 1997, I wrote to the President explaining some of our arms control priorities, including the submission of three significant treaty modifications for advice and consent: The ABM Demarcation Agreement, the ABM Multilateralization Agreement and the flank agreement to the Conventional Forces in Europe Treaty. The administration had previously refused to submit these treaties for Senate ratification.

I wrote at that time.

Bipartisanship is a two-way street. Your administration has now restarted a public campaign to gain Senate advice and consent for the Chemical Weapons Convention. As you seek bipartisan cooperation, you must understand our expectation for such cooperation on ABM multilateralization, ABM demarcation and CFE flank limits.

On March 18, I again wrote the President reminding him that I had not received a response to that January 8 letter. I also pointed out that "it is essential that you and your administration honor the publicly stated commitments to work closely and expeditiously with Chairman HELMS on issues before the committee, including the presentation of a plan to reorganize the U.S. foreign affairs agencies.

From the beginning of the 105th Congress, I made clear as best I could to all who would listen in the administration that bipartisanship could not mean forcing the Senate into acting on administration-chosen priorities if we did not likewise have an opportunity to consider issues that are important to the Senate, in fact, issues we think have long since been sent to us for action with regard to arms control treaties.

We stated that we thought it was vital that we get State Department reorganization and real reform at the United Nations. This was not a quid pro quo but a simple statement of reality. Working in a cooperative fashion, as we must, means that both sides have to be forthcoming on issues in these foreign policy very important, critical areas.

Let me briefly review the status of each of these three related issues. On the arms control treaties, the administration did reconsider their positions very carefully and they came back and agreed to send the Conventional Forces in Europe Flank Agreement to the Senate for advice and consent. Hearings have already been scheduled on this treaty, and I expect a resolution of ratification to be before the full Senate in the near future. President Clinton agreed to submit the agreed statement on demarcation to the Senate for advice and consent. This treaty, agreed to in principle between Presidents Clinton and Yeltsin at the Helsinki summit, will provide the Senate an opportunity to consider the administration's approach toward negotiating constraints on our defensive systems pursuant to the administration's interpretation of the ABM Treaty. I am sure we will have quite an interesting and lively debate on that, but certainly we should take advantage of our responsibilities to do just that. Along with many of my colleagues, I have expressed grave doubts about the wisdom of this administration's approach in that area. Now, however, we have a full opportunity to debate the policy and this treaty in the ratification process.

The President still does not agree that they should send forward the treaty dealing with multilateralization. We think the Constitution requires it; his lawyers disagree. We will continue to

press the administration to accept our position in this area, and they understand we should keep talking about it.

If this provision is contained in the final agreement that is submitted to the Senate for advice and consent in connection with demarcation, it will give us an opportunity to debate it.

On U.N. reform, our now Secretary of State Madeleine Albright asked that we begin to actually meet and talk about U.N. reform; that we meet with a U.N. presiding officer; that he come and visit with us. He did. We have started a process between the House and Senate, Republicans and Democrats, our chairmen and ranking members, to take a look at what should be done with regard to the arrearages we may or may not owe, how can we deal with the U.S. assessment at the United Nations that could be fairer, and we are working from a comprehensive Republican document as a basis for the discussions. I think we see some action already occurring. The Secretary General has been working at it, and I think he understands we are very serious about U.N. reform.

On State Department reorganization, I am very pleased that the administration has proposed, I think, some major changes. Chairman HELMS, and many others, have worked to streamline our foreign policy bureaucracy, and now it looks like we are going to have a chance to do that.

The Agency for International Development, the Arms Control and Disarmament Agency and the U.S. Information Agency were started and organized during the cold war. Barely more than a year ago, President Clinton vetoed a bill which would have mandated the dismantling of only one foreign affairs agency. Last week, however, thanks to the efforts of Secretary of State Madeleine Albright and the involvement of the President, the President agreed to abolish both the USIA and ACDA and to fold many of AID's functions into the State Department. This will make our scarce resources go farther, increase coordination and help ensure American interests, not bureaucratic interests, are behind our foreign policy decisionmaking.

On each of these parallel issues—and I call them parallel, that is the way they have always been discussed—we have made progress. I think it is important that we realize that. Thanks to the persistence of the chairman and thanks to a Secretary of State that is working with us now, we have made progress with U.N. reform, with State Department reorganization, and the fact we will be able to consider these treaties. No serious observer can claim that we have not moved forward in these areas.

There have been important changes in the Chemical Weapons Convention over the past few months. Last September, I worked closely with Senators HELMS, KYL and others in opposition to the treaty. Had we not canceled the vote, I would have voted against it, and I believe that it would have failed.

In the aftermath of that debate, some in the White House blamed political motivations. The President said it was partisan politics involving America's security. But, fortunately, calmer heads have prevailed this year. The administration did come to the table and they have negotiated with us. They recognize the legitimate concerns that were ignored last year. So we have engaged in a process of member-and-staff-level discussions that have had a major impact on this convention.

There are 28 agreed items in this resolution of ratification that were not there last September. Senator KYL, Senator HELMS, and Senator BIDEN have been working together on this. They reached agreements. Some of them Senator BIDEN said, "Yes, we should do this," and the administration didn't particularly agree. Others in the administration said, "Yes, we should do it," and some of our colleagues did not agree with it. There has been a give and take, but real progress has been made.

Many of these items have addressed the concerns that have been cited by opponents as reasons to oppose the CWC last year. I have gone over some of the letters, some of the memos I have received—and I have received a lot of them—and point by point has been addressed, maybe not 100 percent, maybe not to their total satisfaction, but progress has been made. I will not go down the whole list of 28, but I want to list some of the more critical ones where real progress has been made.

First, on search and seizure, condition 28 requires search warrants for all involuntary searches of American facilities. We were worried about a constitutional problem here. Now it has been addressed.

Second, on our ability to use riot control agents, condition 26 ensures that the U.S. policy since 1975 remains in effect. Our military can use nonlethal agents, such as tear gas, to rescue downed pilots. Certainly, that should have been in there all along. I don't know why there was resistance to it, but it has been addressed.

Third, on intelligence sharing, condition 5 places strict limits on all U.S. intelligence shared with the international organization established under the CWC.

Fourth, on maintaining robust chemical defenses, condition 11 mandates a series of steps including negotiations with our allies, planning for chemical weapons in war game scenarios and high-level leadership of the U.S. Army's Chemical School.

Fifth, on information sharing, an area that has worried me the most and right up until this very moment, progress has been made in two ways. First, with regard to these articles X and XI, condition 7 makes crystal clear that nothing in the CWC undermines U.S. export control laws, and that the informal Australia Group export controls will continue. Condition 15 helps to ensure that defensive assistance under the convention will be strictly limited. So I invite my colleagues who may still have some doubts to look at these conditions—conditions 7 and 15—dealing with information sharing and how we have restrictions on the defensive assistance.

Sixth, on financing Russian implementation, which I think is a ridiculous idea personally on its face, but condition 14 precludes the United States from making any commitment to finance Russia's chemical weapons destruction program in an effort to secure Russian ratification of CWC.

Seventh, conditions 1, 17, 6, and 20 preserve Senate prerogatives in this and in future treaties. They preserve our right to pass reservations to treaties, to ratify future amendments to the CWC and to make clear the executive branch cannot commit to appropriations in advance of congressional action.

Eighth, on noncompliance, condition 13 requires a series of steps to be taken by the United States in the event of noncompliance by a party to the convention. Condition 13 mandates unilateral actions and requires the United States to seek a series of multilateral actions to deal with CWC violations.

Ninth, conditions 3 and 22 address financial concerns about the Organization for the Prohibition of Chemical Weapons set up under this convention. One sets a binding limit on the U.S. assessment to ensure we are not creating another international entitlement program, and the other requires an independent inspector general be created to increase accountability of the OPCW.

Finally, condition 10 requires an annual report of condition that, for the first time in arms control, shifts the burden of proof to making the administration certify compliance. As previous experience has demonstrated, the arms control bureaucracy has refused to find clear evidence of noncompliance. This condition will change and will ensure our vigilance on monitoring issues.

Each of these conditions makes the resolution before us today a better document, there is no doubt about it, certainly better than the document we were considering last fall. Each of these changes addresses concerns raised by treaty opponents last year and addresses my own concerns. In addition, the Senate is considering this convention in a manner agreed to by all 100 Senators. We first considered, and passed, as I said earlier, S. 495, the Chemical and Biological Weapons Threat Reduction Act of 1997 sponsored by Senator KYL. We are considering the resolution of ratification drafted by

Senator HELMS. Think about that. We are considering that resolution that he drafted and that he had in the committee. That is what we brought to the floor, and the process requires that motions to strike be offered to take provisions out. Much progress has been made, and many Senators have been cooperative.

But there should be no mistake, serious problems remain with this convention. Unfortunately, key protections in the resolution of ratification may be stricken out in our debate today, and we will have some more votes in a few minutes.

Condition 33 on verification requires the President to certify the same standard of verification developed under the Reagan-Bush administrations—high confidence in detecting militarily significant violations in a timely manner. Detecting the production and stockpiling of chemical weapons may be more difficult than detecting the existence, obviously, of nuclear-armed warheads.

But I will vote to retain the verification standard that has served our country well in previous arms control agreements. I understand why my colleagues might not agree with that and they might vote in a way that would lower this verification standard, but it is a serious problem.

Condition 30, which we just voted on, I think should have been kept in the document.

Condition 29 conditions U.S. participation in the convention upon demonstrated actions by the country with the largest chemical weapons arsenal on Earth—Russia. Russia has not implemented the Bilateral Destruction Agreement signed in 1990. Russia has not submitted accurate data on chemical weapons. That is a real concern, and we have reason to believe they are devoting resources now to develop new chemical agents which are outside the scope of CWC. I support retaining this condition because I believe it makes sense to expect Russia to live up to past agreements before entering into new ones.

I strongly support condition 31 which would require the President to exercise the power given in the verification annex to the convention to bar inspectors from terrorist states and from states which have violated U.S. proliferation law, particularly, I hope and think that we can defeat the motion to strike here. It is not a killer amendment and we ought to retain the right to bar those inspectors.

Finally, there is the most serious question of articles X and XI, whether these provisions on information sharing will increase the likelihood of, in fact, chemical weapons proliferation. Over the past few weeks, I made it clear to the administration as best I could the legitimate concerns about the impact of articles X and XI had to be addressed more than what was in the condition. I support delaying our ratification until the CWC is renegotiated to deal with these articles. For obvious reasons, the administration does not want to do that, and probably the majority of the Senate would not want to do that.

But this very morning, I received a letter from President Clinton which I think is significant. The President made specific assurances that the United States would exercise its right to withdraw from the convention if any one of three things occurred: If countries used "article X to justify providing defensive chemical weapons equipment, material, or information to another state party that could result in U.S. chemical protective equipment being compromised. . .";

If countries use article XI to justify chemical transfers which undermine the Australia Group.

If countries carried "out transfers or exchanges under either article X and XI which jeopardize U.S. national security by promoting chemical weapons proliferation;

These are specific and probably unprecedented. Yes, it is a letter. It is not in the document, but it is signed by the President of the United States in very strong language that, frankly, I was pleased but somewhat surprised that he agreed to say, I will withdraw after consultation with the Senate. If any one of these things happen, he is the President and his assurances in foreign policy must make a difference. They address countries even justifying transfers where there is concern. They address transfers which promote chemical weapons proliferation.

Mr. President, I think this is a very important document. I have made that letter available to our colleagues. I have more copies.

Every Member has struggled with one fundamental question: Are we better off with or without this convention? In my mind, there is no easy answer. I want to know that my children and our country will be better off, and that we will be better able to deal with chemical weapons with it, but I have my doubts.

Experts, whose opinions I respect deeply, are divided on the question. Over the last 2 weeks, I have had many conversations to discuss this convention. I spoke with Presidents Bush and Ford. I talked with my good friend, former Secretary of Defense Dick Cheney, former Secretary of Defense Cap Weinberger, Steve Forbes, former Secretary of State James Baker, Jim Schlesinger, Colin Powell, uniformed military officers—a great variety of people. I met with leaders of groups that are deeply opposed and well informed about the treaty's flaws. I talked with President Clinton, Secretary Albright, and Joint Chiefs of Staff Chairman Shalikashvili.

Republican Senators, with long experience in national security matters, are divided. On this issue, reasonable people can and do disagree, and reasonable people will vote on opposite sides.

After our negotiations, hearings, and discussions, it is time to make decisions—decisions that will be important to the future of our men and women in uniform, and the future security of our country.

I have decided to vote in support of the Senate giving its advice and consent to the Chemical Weapons Convention. I will do so not because I believe it will end the threat posed by chemical weapons or rid the world of poison gas. I will do so not because I believe this treaty is verifiable enough or even enforceable enough. And I will not do so because I believe there are no additional proliferations concerns related to articles X and XI.

I will vote for the convention because I believe there will be real and lasting consequences to the United States if we do not ratify the convention. In a very real sense, the credibility of commitments made by two Presidents of our country—one Republican and one Democrat—is at stake.

I will vote for the convention because the judgment of the most senior former and current military commanders believe it will make our soldiers, sailors, airmen, and marines more safe in potential battlefields and less likely to face the horrible prospect of chemical weapons.

I will vote for the convention because I believe the United States is marginally better off with it than without it. It will provide new tools to press signatories for compliance. It will enable us to gain access to sites and information we are currently unable to examine.

Through the important and enlightening debate we have had over the past few months, I am convinced the convention will bring new focus and energy to this administration's nonproliferation efforts. We have certainly heightened the awareness and knowledge of the concerns we have. One year ago, few of us even knew about the Australia Group. Now we have committed ourselves and the administration to keeping the Australia Group as a viable tool to limit access to chemicals and technology.

Yes, the CWC may give legal cover to proliferators in Teheran or in Beijing. But they have undertaken such efforts in the past and no doubt will do it again in the future.

I believe our allies in Europe are more likely to join with us in isolating Iran if we are a party to this convention than if we reject it tonight. They have made it clear that they hope we will ratify it, whether it is Canada or whether it is Britain or our European allies or Japan.

I believe this convention will increase the cost of covert chemical

weapons programs, and it will increase our chances of detecting such programs.

I think there is a long list of good reasons why we should do this today. I have struggled with it. I would like to take just a minute, if I can, to talk on a personal note.

Many people in the media have tended to say, well, you know, this is going to determine the fate of various and sundry Senators and tell a lot about leadership. It has been exaggerated.

I have talked to a lot of Senators one on one. Not one of them—not one of them—has said that they would vote on it on any basis other than what is best for our country.

The way the Senate works, we debate these issues—we read, we study, we argue, we go back and forth. We set up a fair process, and then we come to a conclusion. We make a decision. We vote on it. And I do not think it is fair to exaggerate any one Senator's role in this whole effort.

I think the Senate should be complimented today for the way it has handled this. I think that Madison, and others, placed their faith in this institution. And I think it has worked well.

The efforts of Senator HELMS and Senator KYL have been heroic. They have done a magnificent job. Others that have supported the convention have done their part, too.

I think that this process has helped the Senate as an institution to exercise the leadership assigned to it by the Constitution. And that, I submit, is the only real test of leadership that truly matters.

I urge the adoption and ratification of this treaty.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HELMS. We have a small difficulty which can be remedied in short order. Without going into a great deal of detail, we are trying to adjust the time back to have accommodated the majority leader and his remarks.

So I ask unanimous consent that—how much time did we agree to?

Mr. BIDEN. That the remaining time that the chairman have be 35 minutes, the remaining time under the control for the Senator from Delaware be 15 minutes, and I believe Senator LEAHY has 14 minutes anyway, and that be the remaining time on the bill.

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

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Who seeks time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. How many minutes?

Mr. BURNS. Ten or less.

Mr. HELMS. Ten minutes.

Mr. BURNS. Or less.

Mr. HELMS. I yield 10 minutes to the Senator from Montana.

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

Mr. BURNS. Mr. President, I thank Senator HELMS, the chairman of the Senate Foreign Relations Committee.

History has to be recorded that this has probably been the most ever-changing and cloudy situation that we have faced here in the U.S. Senate. Some in this body have changed their minds as they have tried to read the public opinion polls, and even some of those who have served in the administration have done the same—the history, as it was articulated here by the majority leader, of getting caught up in Presidential politics in 1996.

But basically what it was, it was most of us sitting down and reading the words and trying to make a decision based on what we think is best for our country. No matter the winds that blow in politics or in public opinion, this issue must be considered and decided on its merits. There is just too much at stake. The President has written a letter to the majority leader. If you will read the words real carefully, you could even say you could argue both sides of the issue on that letter alone.

But I rise today to express my opposition to this Chemical Weapons Convention treaty.

There are several reasons why I have chosen to oppose the treaty. Some would say that it is verifiable. I am not fully convinced of that, yet. Some would say that it does not hinder or break the Constitution. I think I would question that. When it comes to sovereignty of the United States, I would say that very much was in jeopardy. However, I will focus my concerns with article XI and my fears that this article will compromise both the United States and the citizens that live here.

Article XI of the Chemical Weapons Convention treaty prohibits countries from denying others access to dual-use chemicals—that means chemicals that can be used in any manner—processes, and technology. In effect, mandating access to and sharing of materials and the methods of making chemical weapons. By legitimizing commerce in dangerous, dual-use chemicals and processes the CWC will increase, not reduce, the ability of countries to acquire chemical weapons.

Second, Mr. President, article XI gives states the treaty right to:

> Facilitate and have the right to participate in, the fullest possible exchange of chemicals, equipment, and scientific and technical information relating to the development and the application of chemistry for [peaceful] purposes . . .

Have we not had enough experience over nuclear problems of this world, just with one country that is on this planet?

Third, transferring chemical-related technologies and material to members of the CWC such as Cuba, Iran, India, Pakistan, and China will help them establish and/or improve their chemical weapons programs. This is because there is very little difference between the legitimate commercial chemical processes and those processes used to make chemical weapons.

Article XI also legitimizes trade in dangerous dual-use chemicals. The treaty right will be used by countries such as China, India, and Russia to override Western objections to their provision of sensitive chemicals and production technologies to countries such as Iran. China and India already supply Iran with such chemicals, but the CWC will legitimize this trade and allow these countries to expand the volume of commerce conducted in dual-use chemicals.

Mr. President, I take a moment to focus on the fact that by ratifying this treaty, Iran will be permitted to have access to our chemical secrets, to have the ability to obtain chemical information from other rogue nations. If ratified, we are allowing a nation that we have confirmed, we have confirmed as a terrorist nation, one that is the primary suspect in numerous terrorist attacks against the United States, and one that calls for the destruction of this country to get more information, not less, on deadly chemicals.

How many in this body think that if allowed this information, Iran will, of its own accord, destroy these potentially deadly weapons and not use them against United States citizens around the world? I think that is a legitimate question. How many in this body really think that the United States will be in a more secure position? Finally, how can we in clear conscience give them this information when American men and women have been murdered by their actions?

Mr. President, for this reason, I cannot vote for the passage of this treaty.

I have heard all the reasons why we would be just a tiny bit better off being part of the convention. Well, this Senator thinks you have to be a bigger part. It falsely promises security to our Nation, and would betray those U.S. citizens who have died by the hand of terrorists. I urge my fellow colleagues to contemplate what I have stated here. I urge a "no" vote on ratification of this treaty. This is not an easy decision but is a decision where the majority of people who serve in this body have read and have made their decision

on what is actually in it and not the emotion of the times. I urge them to read it and vote accordingly.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield to the Senator from Oklahoma.

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Jeff Severs be permitted privileges of the floor for the duration of the debate.

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

AMENDMENT NO. 48

(Purpose: To strike condition no. 29, relating to Russian elimination of chemical weapons)

Mr. BIDEN. 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 Delaware [Mr. BIDEN] proposes an amendment numbered 48.

Beginning on page 61, strike line 21 and all that follows through line 7 of page 63.

Mr. BIDEN. Mr. President, this amendment strikes condition 29. I will speak to this in a moment, but I yield as much time of the half-hour that I control as my friend from Indiana desires to discuss this.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I thank the Chair and I thank the distinguished Senator from Delaware. The condition that we move to strike, condition 29, would prohibit the United States from ratifying the Chemical Weapons Convention until the President certifies that Russia has done the following:

Ratified the CWC, complied with the 1990 bilateral destruction agreement, fulfilled its obligations under the 1989 Wyoming memorandum of understanding, and ceased all chemical weapons activities.

Mr. President, two arguments against this condition prevailed, at least on the last vote that we had. I cite the first important argument is simply that this is a killer amendment. Senators need to know that a vote to leave this in the convention effectively terminates the convention. Senators cannot have it both ways.

I simply indicate, in his very important statement, the majority leader, Senator LOTT, referencing a particular condition that he found appealing, indicated it was not a killer amendment. But, in fact, this one is a killer amendment. Therefore, there is a crucial reason to vote to strike it.

Second, Mr. President, once again we are talking about American leadership. It is in our interest, clearly, to get Russia's attention to the chemical weapons problem. We have decided unilaterally in this country that chemical weapons are not useful to us in our defense, largely because we cannot necessarily guard our own troops against the fallout and against the problems they create. So we are destroying them.

Russia always had greater stocks than we have. They still do. It has been in our interest to work with the Russians. In the Cooperative Threat Reduction Act, so-called Nunn-Lugar-Domenici Act, we have worked with the Russians in a first instance to assist them in the techniques of destroying chemical weapons in Russia. There are seven very large sites that need to be dealt with. We are dealing now with the Russians at the first.

Mr. President, I speak today from a personal experience of last October when it was my privilege to accompany the then Secretary of Defense, William Perry, and my colleagues Senator Sam Nunn and Senator JOE LIEBERMAN, in a visit to Russia, specifically to the Defense Department of Russia and to military persons involved in weapons of mass destruction. Perhaps equally importantly, Mr. President, it was my privilege to go with my colleagues from America to the Russian Duma. On that particular day, our first attempt was to attempt to gain some understanding by members of the Duma about the importance of the START II treaty and its ratification. While we were there, we visited with the relevant committees comparable to our Foreign Relations and our Armed Services Committee about the Chemical Weapons Convention.

The Russians—in what we characterize as the Russian administration, the executive branch, and the legislative branch, the Duma—made identical points to us, that the START II treaty was coupled in consideration with the expansion of NATO. They said this is a political issue. These two are joined together.

With regard to the Chemical Weapons Convention, they made the clear distinction that it was not political, it was not involved with either NATO or START II or other arrangements. As a matter of fact, they perceived it was in the interests of Russia to ratify the treaty. They also pointed out that Russia has very little money, that at this particular point in history Russian taxes are not being paid with regularity. The soldiers are not being paid, or at least their paychecks are often delayed. As a result, they pointed out that arms control expenses were a very great problem for them. I think we understand that. That is not a sufficient reason for Russia to dodge its responsibilities. But it was a reason offered as to why they had postponed consideration.

In addition, Mr. President, they have postponed consideration because despite our leadership from the very beginning, our leadership to destroy our own chemical weapons, then to try to sign up all the nations of the world to destroy theirs, and to make this an international law project, the Russians read our press and they understood that we had had difficulty last December in ratifying this convention. So they simply were curious as to whether we were serious now. Well, we are, Mr. President. I simply say that the question that is before the Senate should not be delay or perhaps failure to ratify the treaty, because we are waiting on Russia. Our leadership is imperative. We are the country that is leading the world. We are the country that is leading Chemical Weapons Convention matters. Our citizens of the United States take that seriously. Mr. President, a large majority of Americans want us to act. They believe the U.S. Government ought to do everything possible, and they recognize, as do most Senators, that this convention is unlikely to get that job done very swiftly but they do recognize it is an advance, it is a constructive step. To offer as a reason why we would not proceed that we are waiting for Russia, or hoping that two agreements that are specified in the condition might somehow come to fulfillment is to miss the entire point of the leadership that is involved and the persuasion we must have.

Mr. President, I believe it is important, as soon as we ratify this convention, for the President of the United States to press on President Yeltsin his responsibility to gain ratification. At the Helsinki summit meeting recently, President Yeltsin assured our President he would offer that leadership. He assured our President he understood the responsibility of the Russians. He also asked our President to do his duty to help get the job done here. In fairness, our President has been fulfilling that responsibility, as did Senator Dole yesterday, as have President Bush and President Ford, as they have come forward as Presidents who understand, and as the majority leader understands. In his statement today, he mentioned one reason for voting for this treaty is the fact that two Republican administrations have made a commitment. An American word means something. Our leadership has continuity and staying power. It does not flip one way or another, depending upon Iraq or Russia.

Mr. President, I simply say, once again, American leadership is at stake. We are looking at a killer amendment. This condition must be struck. I ask Senators to vote aye when the roll is called.

I thank the Chair.

Mr. HELMS. Mr. President, before I plead on this amendment, I have been around this place for quite a while. Before I came to the Senate as a Senator, I had the honor of serving with two Senators as administrative assistant. Time after time, at the conclusion of long arduous debate and votes on various issues, a parting "thank you" is

made to the staff people who did most of the work. I talked to Senator BIDEN and told him I want to do it now before we begin to sign off. He suggested that I go first.

Admiral Nance, sitting back there, with the white hair, that young man, he and I were boyhood friends back in Monroe. Adm. James W. Nance, the chief of staff of the Foreign Relations Committee; Tom Klein; Mark Theissen; Steve Biegun; Marshall Billingslea—particularly Marshall Billingslea—Colleen Noonan; Beth Wilson, and the rest of the Foreign Relations Committee staff.

Senator KYL has three remarkable young people: David Stephens, John Rood, and Jeanine Esperne. Senator CRAIG has Yvonne Bartoli and Jim Jatras.

I want to thank, in particular, some people from the outside who helped enormously in our trying to build a case to protect the American people from the extravagances of this treaty. But that is neither here nor there, but I want to thank those four great former Secretaries of Defense who came up—Dick Cheney; Cap Weinberger; Don Rumsfeld; James Schlesinger; the marvelous Jeane Kirkpatrick; Steve Forbes, who came down from New York; Richard Perle; Frank Gaffney; Doug Feith, and Fred Clay. I also want to include the retired flag and general officers.

I know that when I am driving home in a few hours from now, I will think of others. Just speaking for all of us, I want to thank them all. I know Senator BIDEN wants to do the same thing on his side.

I yield the floor.

Mr. BIDEN. Mr. President, I thank the chairman. I apologize because I may have to augment this. Although it is a very good idea to do it now, I was preparing to do it later, so I may leave somebody out, and I may amend this.

Let me begin by thanking a young man, who came over from my personal staff to the Foreign Relations Committee and I think maybe Mr. Billingslea may have thought he was his cousin, they spent so much time together in the last couple of months, and that is Puneet Talwar. He has done a great deal of the heavy lifting for me on this, along with Ed Levine, from the Intelligence Committee, who is now working with me. Ed Hall, the minority staff director; John Lis; the young man—well, he has been with me so long that he is getting old—Brian McKeon, who is counsel for the minority; Frank Januzzi; Dawn Ratliff; Kathi Taylor; Ursula McManus, who we kept up late at night writing memos and other things on our behalf; Casey Adams; Bill Ashworth, a former long-time staff member of the Foreign Relations Committee and Senator Pell's staff; David Schanzer, who worked with me on the Judiciary Committee; Mary Santos; Kimberly Burns; Jennette Murphy; Larry Stein; Randy DeValk; Sheila Murphy, all leadership staff persons who have worked with me.

I have left out some, but I will augment this with the staff members of the Intelligence Committee, the Appropriations Committee, the Judiciary Committee, and the Armed Services Committee. They all played major rolls.

The hearings that the distinguished chairman had on this treaty this time around were, I think, among the best hearings—even though I didn't always agree with the witnesses—that I have participated in in my 25 years. The cast of characters were the luminaries of previous administrations, as well as this administration. We had the who's who of the foreign policy establishment, literally. These people were particularly helpful to me, which is going to sound strange. He was up in the gallery, but I am referring to General and former Ambassador Rowny, a close friend and, I think, neighbor of the chairman. I know he is much more philosophically compatible with the chairman than with me, but we found ourselves on the same side of this issue. Everybody wondered why Bob Dole changed his mind—not changed his mind, but why Bob Dole concluded that the conditions that were added to the treaty sufficiently corrected its defects. It is my understanding that General Rowny bumped into Bob Dole in a coffee shop at the Watergate Hotel. I can see the distinguished Senator from Arizona wishing he had been at that coffee shop. But there was Gen. Brent Scowcroft, one of the most respected people in this town, Adm. Elmo Zumwalt; John Deutch; Fred Webber and his staff at the Chemical Manufacturers Association; Gen. Colin Powell; Amy Smithson of the Stimson Center; John Isaacs; Brad Roberts, Institute for Defense Analysis; Barry Kellman, DePaul Law School; Ron Lehman of the Reagan and Bush administrations. I am leaving a number of people out who I will add later.

I thank them all for contributing to this debate. I want to make a personal thanks, if I may, Mr. Chairman and Mr. President, to one of the most competent staff people I have ever dealt with in the administration, Bob Bell, who works for Sandy Berger and who also, I think, did an incredibly good job here, and Lori Murray, also of that staff. Bob Bell is a walking encyclopedia, who negotiated with the Lott committee. He is a man who has the ability to understand very complex notions and put them into language everybody can understand. He has done an admirable job. There are other people to thank.

Mr. LUGAR. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. LUGAR. I would like to ask if he would include Kenneth Myers and Kenny Myers, on my staff and the staff of the Intelligence Committee, who have been invaluable.

Mr. BIDEN. The answer is I would absolutely like to do that. The statement I was going to introduce has a paragraph about that.

I express my deep appreciation to Senator LUGAR, with whom I have talked every day for the past few months as we have tried to move the ball forward in this treaty. He was very committed. He is truly the Senate's leading expert on the treaty and, I think, one of the leading experts in this country on foreign policy. We would not have gotten this far without his efforts. Perhaps the reason he is as good as he is that he has a father and son team working for him, Kenneth and Kenny Myers. I envy Ken Myers, Senator LUGAR's long-time staff aide, because he gets to work with his son, Kenny Myers, every day. The only thing I found, Mr. Chairman, in my meetings with them is that, like with my sons, I occasionally observe that the son knew more than the father. So my compliments to both of them.

The bottom line of all this—and I assume this was one of the intentions of the Senator from North Carolina, the chairman—is that regardless of the final outcome of each of these remaining amendments and the treaty, this has been done fairly and honorably. Everyone has kept their word. We said we would negotiate in good faith; we both did. All of the staff members involved acted in the same way.

Lastly—and I hope this doesn't come out the wrong way—I want to thank the chairman of the full committee for the honorable way in which he has dealt with this entire matter. I mean that sincerely.

I yield the floor.

Mr. HELMS. I thank the Senator. I will add two things. One, I hope Bob Dole stays out of those coffee shops from now on. I am going to see if the distinguished ranking member would mention probably the most prominent player in this game. He didn't, but I will, because I had the honor of escorting her to North Carolina—the new Secretary of State, Madeleine Albright. I don't always agree with her, nor she with me. But she is a great lady and she is doing a good job for this country. I thank her.

Mr. President, one of the many fine people who contributed to the Chemical Weapons Convention is no longer among us. Mrs. Sherry Stetson Mannix, a retired U.S. Air Force lieutenant colonel, joined the U.S. Arms Control and Disarmament Agency in 1984 and became its top expert on chemical weapons. She helped negotiate the treaty, and then she became a resource person for Members and staff of the Senate as we began to consider whether to give our advice and consent to ratification.

Lieutenant Colonel Mannix was dying of cancer in 1994, when the Foreign Relations and Intelligence Committees first held hearings on the CWC. Despite being in terrible pain, Lieutenant Colonel Mannix faithfully and effectively managed the process of responding to our committees' questions for the Record.

Sherry Mannix was only 44 years old when she died in early 1995. She had hoped to live long enough to see this convention ratified. We were unable, Mr. President, to grant that last wish. But Sherry Mannix kept faith with us, with her comrades in the U.S. Armed Forces, and with her country. Now we have the opportunity to keep faith with her, and with all our military personnel who long for ratification of this convention as a step toward curbing the menace of chemical weapons.

Mr. HELMS. What is the pending business, Mr. President?

The PRESIDING OFFICER. The amendment offered by the Senator from Delaware.

Mr. HELMS. Which is?

The PRESIDING OFFICER. No. 48.

Mr. HELMS. I yield to the distinguished Senator from Arizona [Mr. KYL] for whatever time he may require.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will, at a later time, join in thanking the various staff and other people who have been so useful in ensuring a good debate. I think the Senate has gotten very serious about this matter. As the majority leader said earlier, as a result of the application of various Members of the Senate, a great deal of progress has been made in trying to bring the sides closer together in getting a treaty that, if it is entered into, will be more in the interest of the United States than as originally submitted.

There are a couple of conditions, however, in the resolution of ratification which we believe ought to be a part of this treaty before the President submits those articles for ratification, signifying the U.S. entry into the treaty. One of the most important is the one before us at this moment. There is a motion to strike this condition from the resolution of ratification. We believe that this condition should remain. As the majority leader earlier said, he believes this condition should remain. Here is what it provides: Prior to depositing the U.S. instrument of ratification, the President must certify four things: First, that Russia is making reasonable progress on implementing the 1990 bilateral destruction agreement entered into between the United States and Russia. Second, that outstanding compliance related to the 1989 Wyoming memorandum of understanding have been resolved to U.S. satisfaction. Third, that Russia has deposited its articles of ratification of the conventional weapons agreement. Fourth, that it is committed to foregoing any weapons development.

Those are four important conditions, if our partner, Russia, and the United States are to effectively utilize the Chemical Weapons Convention. The reason is, first of all, because Russia is the world's largest possessor of chemical weapons. It has anywhere from 60 to 70 percent of the world's chemical stocks. For the Chemical Weapons Convention to be global, in the sense that it covers the weapons, and to be effective, it should involve the country with the largest inventory of chemical weapons.

Now, Russia has signed the Chemical Weapons Convention, but has indicated that it will not ratify, at least at this time and, as a matter of fact, in a communication to the Vice President of the United States, one of the Russian leaders, Chernomyrdin, said, in effect, that Russia would prefer that the two parties, if they are going to come into the treaty, come in at the same time rather than one preceding the other, and, therefore, said that it would be integral to Russian entry that the United States entered first, which is what we are about to do.

I think these four commitments by Russia are integral to the success of the Chemical Weapons Convention if we are to have a truly global ban. That is why this condition 29 should remain a part of the resolution of ratification.

Quickly, to the four points: First, reasonable progress in implementing the 1990 Bilateral Destruction Agreement. Reasonable progress simply means that we are continuing to work on complying with it. That is what the Russians agreed to do when they entered into this agreement in June 1990. This is an agreement between President Bush and President Gorbachev.

By the way, when proponents of this treaty speak of it as a Reagan-Bush-Clinton treaty, I point out the fact that the treaty was different in the Reagan and early Bush years than it is now. One of the underpinnings of the treaty was that this bilateral destruction agreement between Russia and the United States would be in place and would be enforced and would be complied with by the two parties. This agreement was designed specifically to ban the production of chemical weapons, their agents, the destruction of chemical weapons agents, to provide for onsite inspections of CW facilities, and require data declarations.

The Bilateral Destruction Agreement is central to the CWC before us today. Without it the Chemical Weapons Convention is a much weaker treaty than it would otherwise be. The CWC was negotiated with the assumption that the United States and Russia would both destroy and verify destruction of their stockpiles under the Bilateral Destruction Agreement. But Russia has not implemented the Bilateral Destruction Agreement, and it appears that it has no intention of doing so.

Russian Prime Minister Chernomyrdin, in this letter to Vice President GORE that I mentioned before, essentially stated that the Bilateral Destruction Agreement and the 1989 Wyoming Memorandum of Understanding have outlived their usefulness insofar as Russia is concerned.

The Chemical Weapons Convention before us today is no substitute for the Bilateral Destruction Agreement. Under the Bilateral Destruction Agreement, the inspectors of Russian facilities would not be international inspectors. They would be U.S. professional inspectors, and there would be more frequent inspections. The United States would have guaranteed access to data declarations, none of which would be the case under the CWC.

So it is important that Russia at least indicate to us that it is making reasonable progress to implement the BDA before we enter into force CWC.

Second, the resolution says there should be compliance with the 1989 Wyoming Memorandum of Understanding. Without getting into a lot of detail, I will simply note that this memorandum of understanding was essentially an agreement between the two states that we would exchange data on how much chemical weapons we had and to provide the information on the status for binary weapons programs.

To comply with this declaration, the United States has given information to the Russians. Russia declared a 40,000 metric ton agent stockpile. However, present reports and other information allege that the Defense Intelligence Agency estimates that the former Soviet—now Russian—stockpile could be as large as 75,000 tons. Russia has refused to provide information on the status of its binary weapons program. And, according to the former Director of Central Intelligence Jim Woolsey, "The data we have received from Russia makes no reference to binary chemical weapons or agents. That is contrary to our understanding of the program that was initiated in the former Soviet Union."

There are additional indications of activity on the part of the Russians, all of which suggest that they are not in compliance with this 1989 memorandum of understanding.

Our second point in this condition is getting compliance with that.

Third, we want the Russians to ratify this treaty at the same time that we do. That is what they want to do. We believe that will be a preferable course of action to the United States entering into the treaty causing the Russians to be concerned that we would set up the rules of the treaty, in effect, in a way that would be amicable to their interests, thus perhaps causing them never to enter into the treaty.

A CWC without Russia, furthermore, means that over 50 percent of the

world's known chemical weapons stockpile will be outside of the treaty regime. Should the United States ratify the CWC absent Russian participation or the involvement of other states that have weapons, the treaty's intrusive verification schemes would, for all intents and purposes, be focused solely on the United States, the only nation likely to declare integral weapons inventory. In effect, we would be paying 25 percent of the cost of the treaty to verify our own compliance.

Finally, Russian commitment to forego a chemical weapons capability. This is central to the meaning of the CWC. If Russia is not willing to do this, obviously their intentions are not to comply with CWC.

We have evidence of the so-called Novichok class of nerve agents that is more lethal than any other known chemical agent in the world.

According to Jane's Land-Based Air Defense 1997–98, Russia is developing three new nerve agents, two of which are eight times as deadly as the VX nerve agent stockpiled by Iraq.

Mr. President, Russia's new chemical agents do not depend on stockpiles that are on the CWC list of scheduled chemicals, according to sources. Thus, inspectors will neither be prepared nor allowed to look for them, nor will Russia be precluded from importing these components. A declassified portion of a May 1995 national intelligence estimate states "Production of new binary agents would be difficult to detect and confirm as a CWC-prohibited activity."

In conclusion, in light of these ongoing activities and related United States intelligence estimates, it is reasonable to condition United States ratification of the CWC to the President certifying that Russia is committed to foregoing chemical weapons capability or other activity contrary to the purpose of the convention weapons treaty.

For those reasons, Mr. President, I join the distinguished majority leader and the chairman of the Foreign Relations Committee in urging that we not strike this condition from the resolution of ratification.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, parliamentary inquiry: How much time is under the control of the Senator from Delaware?

The PRESIDING OFFICER. Seventeen minutes.

Mr. BIDEN. I yield 5 minutes to the distinguished Senator from Michigan. Next, I will let people know that I understand Senator INHOFE is going to speak in opposition to this motion to strike. Then I would like to yield, just to let people know, 5 minutes to the distinguished Senator from Virginia.

That is for informational purposes. I am not asking UC.

I now yield 5 minutes to the Senator from Michigan.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, it isn't always that our top military officials so strongly and jointly agree that an arms control treaty is in our national security interest. But in the case of the chemical weapons treaty before the Senate today, that strong support has been expressed over and over and over again.

The Chairman of the Joint Chiefs, General Shalikashvili, speaking on behalf of the Chiefs of each of the services and the combatant commanders, urged the Senate to ratify this treaty because it would make it less likely that our troops will face chemical weapons. Their position is not based on politics or public opinion polls; it is based on their military judgment.

The acting head of Central Intelligence, George Tenet, has said that this treaty will give us additional tools to inspect for chemical weapons that we otherwise would not have.

The United States, under former President Bush, led the way to the negotiation of this treaty. It would represent a tragic blow to American leadership were the Senate to reject a treaty negotiated and supported by three Presidents. If we don't lead the way, if and when the day comes that we must act militarily to eliminate a country's chemical weapons, the credibility of and support for, that effort will be undermined by our lack of clean hands and our refusal to ratify a treaty that makes it less likely those weapons will be created to begin with.

The CWC destroys stockpiles that could threaten our troops; it significantly improves our intelligence capabilities, and it creates new international sanctions to punish those states that remain outside of the treaty. If we fail to ratify the convention, we will imperil our leadership in the entire area of nonproliferation, perhaps the most vital security issue of the post-cold-war era.

Relative to condition 29 that is before us, there is a motion to strike this condition that has been made by the Senator from Indiana. It is based on many grounds. But the first ground that he points out, which seems to me is the foremost ground even before we get to the details of this condition, is that this condition is a killer condition. If this condition stays in this resolution, it kills this ratification resolution because it makes it conditional on somebody else ratifying.

Do we want to make our ratification conditional upon these other events? Do we want to give Russia the power to decide our participation in the leadership of this crucial treaty? The President has said—I am here quoting him—"This is precisely backwards. The best way to secure Russian ratification is to ratify the treaty ourselves. Failure to do so will not only give hard-liners in Russia an excuse to hold out but also to hold onto their chemical weapons."

Do we want Russia to ratify? Clearly we do. General Shalikashvili, who has so strongly supported the ratification of this treaty, has testified before us in the Armed Services Committee as follows: "The most significant advantage derived from the convention is the potential elimination of chemical weapons by state parties." He went on to say, "Eventual destruction of approximately 40,000 tons of declared Russian chemical weapons will significantly reduce the global chemical threat."

That is why General Shalikashvili has said, among other reasons, that the ratification of this treaty will make it less likely that our troops would ever face chemical weapons because the largest declared stockpile by Russia must be destroyed under this treaty. General Shalikashvili, Chairman of our Joint Chiefs, speaking for each of the chiefs and our combatant commanders, says that destruction of 40,000 tons of declared chemical weapons by Russia is the most significant advantage to this treaty.

What does our ratification have to do with Russian ratification? I would suggest here that we listen to a number of voices. But one of them is a Russian voice—a Russian scientist who blew the whistle actually on the Soviet Union chemical weapons program. His name is Vil Myrzyanov. He is a high-level Russian scientist. This is what he said about the relationship in a letter that he wrote to Senator LUGAR. "Senate ratification of the convention is crucial to securing action on the treaty in Moscow."

Our ratification, he is telling us—this is an inside voice—is critical to getting the Duma to ratify this treaty. And getting the Duma to ratify this treaty is, in the eyes of General Shalikashvili, the single most important advantage of the treaty because then 40,000 declared tons of chemical agents, the largest stockpile in the world, will be destroyed and less available for leakage, less available to any potential sale or disposition to others adversely or inadvertently.

So our leadership is important to a safer world. This is a treaty that we helped to draft, negotiated, and now it is before us to ratify. But our leadership is also important to ratification of this treaty inside of Russia.

The decision of whether the United States ratifies this convention is for this body, the United States Senate to decide—not the Russian Duma. We should strike this killer condition.

The purpose of both the Bilateral Destruction Agreement and the Wyoming

MOU was to help make progress towards achieving a CWC.

Now that we have the CWC complete, the BDA and the Wyoming MOU are less relevant. We can enter the CWC without the BDA being implemented.

The BDA does not go as far as the CWC. BDA would permit both sides to keep 5,000 tons of chemical agent. The BDA does not permit challenge inspections.

The CWC requires complete destruction of all chemical weapons, and provides for challenge inspections to any facility suspected of a violating suspected of violating the CWC.

If the CWC is ratified by the United States—which this killer condition would prohibit—and by Russia—it is entirely possible that the United States and Russia can finish negotiations on the BDA and let it enter into force.

If the United States does not ratify this convention, there is little chance Russia will ratify it and there is no chance for this BDA ever entering into force.

If we want Russia to ratify the CWC—and surely we must—then we should ratify the CWC—which, in turn requires us to strike this condition.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I am going to abbreviate my statement in the interest of time, hoping that we can help Senators get out a little bit earlier, including the distinguished occupant of the Chair.

Mr. President, this condition is very important. It forbids the deposit of the United States instrument of ratification until Russia has made significant progress in implementing the 1990 Bilateral Destruction Agreement and has resolved concerns over its incomplete data declarations under the Wyoming memorandum of understanding, ratified the convention and has committed to forgo the clandestine maintenance of chemical weapons production capability.

That sounds like a lot but more than anything else it is a measurement of how Russia is playing games in terms of not doing things to live up to its agreement.

I have the highest hope that Russia one day will have a free enterprise economy and all the rest of it, but such commitments by Russia are absolutely imperative and essential to the success of this CWC, this treaty, in securing a truly global ban on possession and use of chemical weapons. If Russia continues to drag its feet, this convention will be worth almost nothing. And for my part, as one Senator, I am extremely concerned that Russia, the country that possesses the largest and the most sophisticated chemical weapons arsenal in the world, has refused consistently to agree to implement its commitments to eliminate its chemical weapons stockpile despite the 1990 United States-Russian Bilateral Destruction Agreement.

Now, put any face on it you want, but if Russia fails to do that, then Russia is telling this Senate, this Government, the American people, we don't care what you want; we are going our way. And that is a pretty dangerous position for Russia to take in terms of world peace.

This coupled with the Russian withdrawal from the BDA and the Russian Parliament rejection of the chemical weapons destruction plan portend ominous things to come in terms of Russia's ratification of this treaty.

Now, I hope Senators are aware, and if they are not aware, that they will become aware, that Russia is by far and away the world's largest possessor of chemical weapons. If the United States in eliminating its own chemical stockpile could assure that Russia also destroyed its stockpile through the Bilateral Destruction Agreement, 99 percent of the world's chemical arsenal would be eliminated independently of this treaty. So that gives you some idea of the enormity of this situation which has been passed over and over and over. I think enough is enough.

Now, of course, Russia has signed the CWC but it has not ratified this treaty. Evidence has come to light recently, by the way, suggesting that Russia may not pursue ratification of this treaty in the near term and does not intend to abide by the CWC even if it ratifies it.

I just want Senators to understand what they are doing. It is all very well and good to succumb to the imaginative suggestion that we are doing something about chemical weapons when we pass this treaty. We are not. It is not going to do one bit of good until the United States is able to persuade some other people to do things that they have already agreed to do. So the danger is how the American people are being misled by those who have endorsed this treaty into believing that something is being done about chemical weaponry.

I hope, if we do nothing else in our opposition to this treaty, we can make the American people aware that nothing is being done for their safety by this treaty. I wish it were different. I wish I did not have to stand here and say this. But those are the facts. This treaty is absolutely useless in terms of giving the American people any security at all.

According to a May 6, 1996, letter from the DIA, the Defense Intelligence Agency, to the chairman of the Senate Select Committee on Intelligence:

> There are several factors affecting Russia's actions regarding its CW programs and arms control commitments. Russian officials probably believe they need a CW capability to deter other nations from chemical warfare. They cite a potential threat from purported CW programs in the United States, other Western nations, and several countries on or near Russia's borders.

Now, the DIA continued:

> In addition, Russian officials believe that dismantling the CW program would waste resources and rob them of valuable production assets. They maintain that the CW production facilities should not be destroyed but be used to produce commercial products.

Well, la-de-da. Every nation that has some ulterior motives with chemical weapons can say the same thing.

> Moreover, these officials do not want to see their life's work destroyed, their jobs eliminated, and their influence diminished.

And here we are probably going to ratify this treaty in spite of the great concern about the views of Russia's senior military leadership on the Chemical Weapons Convention and on the elimination of Russia's chemical warfare capability in general.

On numerous instances, the United States has received indications that key elements within the Russian Government staunchly oppose the CWC. Back in 1994, October 25, Dr. Lev Fyodorov—I never met him, do not know how to pronounce his name—head of the Union for Chemical Security, told Interfax news service that key officers from the Russian Ministry of Defense had spoken against the treaty during the Russian Duma defense committee's closed hearings on October 11 1994.

Now, my concerns about the two Russian generals responsible for Russia's chemical warfare elimination program have been well documented in a series of letters to President Clinton, and I ask unanimous consent that these letters be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, October 25, 1995.

The PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: I take no offense at your declaration to the effect that I am irresponsibly delaying consideration of the Chemical Weapons Convention. Both of us know that this is not so. Moreover, the CWC is a treaty which in my view must not be seriously considered by Congress unless and until the issue of verification can be resolved.

There is no disagreement that the production stockpiling and use of chemical and biological weapons is inherently abhorrent, and especially by rogue regimes. Yours is the second Administration with which I have raised compelling questions about verification, Russian compliance, Russian binary weapons programs—and the cost of the Chemical Weapons Convention.

If and when we receive satisfactory answers to these concerns, there would be a substantial increase in the probability of this treaty's being reported out of the Foreign Relations Committee for formal consideration by the Senate.

I was astounded to learn, as surely you were, that the former Chairman of the [Russian] President's Committee on Conventional Problems of Chemical and Biological

Weapons, Lieutenant General Anatoliy Kuntsevich, is now under the house arrest for his having delivered 1,800 pounds of military chemicals to terrorists in the Middle East in 1993. What's more, the Russian intelligence service asserts that General Kuntsevich attempted to sell 5 tons of military chemicals to the same buyers a year later, in 1994. He was caught in the act.

Needless to say, the arrest of this key Russian negotiator of the Chemical Weapons Convention on trafficking charges—for dealing in the very same chemical agents he was supposedly trying to control—calls into question the integrity of every provision of the Chemical Weapons Convention. It certainly lends credibility to concerns about the trustworthiness of Russian declarations regarding its own current chemical and biological programs, its stockpiles, and the sincerity of the Russians' willingness, and ability, to abide by the CWC and other agreements.

General Kuntsevich's role in chemical weapons dates to the 1980s. As Deputy Commander of Soviet Chemical Forces, he was honored as a hero of Socialist Labor in 1981. In 1988, he became a member of the Soviet delegation to the United Nations Conference on Disarmament, which negotiated the CWC. In 1991, he received the Lenin Prize for his work on binary chemical weapons. Through his many years as a negotiator for the Soviet/Russian governments, Kuntsevich won a number of concessions on the Chemical Weapons Convention and follow-on provisions to the Bilateral Destruction Agreement. Moreover, he was responsible for Russia's dubious declarations under the Wyoming Memorandum of Understanding.

While General Kuntsevich is said to have been removed by President Yeltsin in April 1994, concern remains that the General may have conspired to negotiate significant loopholes in the agreements with the obvious intent of enabling him and others to engage in chemical trafficking with impunity—and possibly to permit Russia to evade its obligations.

I respectfully request a thorough analysis of the negotiating record of the CWC and the Bilateral Destruction Agreement in order to review the role of General Kuntsevich in securing various provisions and concessions. I regard this analysis to be essential to any credible review.

Furthermore, I need to know General Kuntsevich's role in the provision of questionable data declarations under the Wyoming Memorandum. Has he been allowed to retain contacts with the Yeltsin government since his removal?

There are three other questions, Mr. President, that simply must be answered:

(1) When did the U.S. government learn of General Kuntsevich's role in trafficking chemical weapons and other corrupt practices?

(2) Were you aware of his activities, and his arrest, while you were urging the Congress to move forward on the ratification of the CWC?

(3) If General Kuntsevich has been under house arrest since April 1994, what could explain the timing of the Russian government's revelations regarding his activities?

The Russian government should be urged to accelerate and complete its investigation of General Kuntsevich. I do hope you will obtain from the Russian government a full accounting of precisely what was sold and to whom, and how Russian export controls were circumvented. Additionally, what precautions, if any, have been taken to prevent such future incidents from occurring?

Obviously, unless and until these concerns and those raised previously have been addressed, it would not be fair to the security and safety of the American people even to consider moving the Chemical Weapons Convention out of Committee.

Respectfully,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, October 30, 1995.

DEAR COLLEAGUE: I am confident that you were astonished, as I was, that Russia's former chief negotiator for the Chemical Weapons Convention is now under house arrest for trafficking in the very military chemicals he purportedly was seeking to control. Apparently, General Kuntsevich in 1993 sold 1,800 pounds of chemical agents to terrorists in the Middle East. He was caught attempting to sell another 5 tons a year later.

Many of us have consistently raised concerns regarding the verifiability and enforceability of the Chemical Weapons Convention. This most recent incident makes it demonstrable that the CWC, even had it been in effect, would have been helpless to interdict illicit trade in chemicals. (General Kuntsevich is alleged to have transferred chemicals not listed in the chemicals annex of the CWC, and those chemicals went to a country that was not even a signatory to the Convention. He was caught red-handed by traditional, national law enforcement means, not by some global policing mechanism.)

Furthermore, had General Kuntsevich not been caught, it is conceivable that he and/or his cronies may have worked their way into the administrative body of the CWC, and would then have access to a plethora of information regarding the chemical programs of all signatories, and forewarning of all short-notice inspections to be conducted under the Convention.

The attached letter that I sent to President Clinton underscores my concerns arising from the arrest of General Kuntsevich. Given Kuntsevich's influence over the negotiating process of the CWC, and his responsibility for overseeing the destruction of his own personal empire under the U.S.-Russian Bilateral Destruction Agreement, I have requested a thorough review of the negotiating record of both agreements.

I bring this new incident to your attention as the Senate continues its discussion of issues surrounding the Chemical Weapons Convention. General Kuntsevich's activities and arrest highlight the many legitimate concerns we all share regarding how best to guard against the threat that chemical weapons pose to our nation's security.

Respectfully,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 21, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I was gratified to note your Administration's decision to impose sanctions against Lieutenant General Anatoliy Kuntsevich, former Chairman of the [Russian] President's Committee on Conventional Problems of Chemical and Biological Weapons. (I had written to you on October 25, 1995 regarding his having been arrested on charges of selling military chemicals to Middle East terrorists.)

Disturbing information about General Kuntsevich's activities prompted my concerns about whether the U.S. can believe Russian declarations regarding: (1) its current chemical and biological programs and stockpiles; (2) its willingness to abide by the 1990 U.S.-Russian Bilateral Destruction Agreement (BDA); and (3) its intent to ratify the Chemical Weapons Convention.

General Kuntsevich was, after all, one of the most senior officers in Russia's chemical weapons program. Indeed, in 1994 it was he who signed, in conjunction with Colonel General S.V. Petrov, the U.S.-Russian work plan for the destruction of Russia's chemical weapons.

At that time, your National Security Advisor assured me that General Kuntsevich was acting independently of the Russian government. I was also told that his actions in no way called into question the willingness of Russia to abide by its commitments to eliminate its stockpile of chemical weapons. However, it subsequently came to my attention that yet another high-ranking Russian general, General Petrov, has openly alluded to the desirability of maintaining a chemical weapons capability. General Petrov, the other signatory to the 1994 Work Plan, expressed his views in the November-December 1994 edition of the official Russian Military Journal, Military Thought. Such a belief, stated publicly by a key Russian officer, prompts concern that key elements within the Russian government may not even intend to implement the BDA, ratify the CWC—or abide by either agreement.

Most troubling to me, however, are rumors that have begun to circulate that Russia no longer favors implementation of the six-year old Bilateral Destruction Agreement. I further understand that Russia will not seek to ratify the Chemical Weapons Convention in the near future, and that the United States has been told to delay its own ratification indefinitely—or risk the possibility that Russia will never ratify the CWC.

I am concerned that nearly a month has elapsed and the Senate Foreign Relations Committee has yet to be notified of such an ominous change in Russian policy towards the destruction of its chemical arsenal.

Accordingly, I respectfully request immediate declassification of any documents or cables pertaining to the aforementioned issues, including cable number 607329 dispatched from Bonn on May 21, 1996, and their being provided to the Committee. I also respectfully request detailed, and unclassified responses to the following questions:

(1) Has the intelligence community conducted any assessment identifying Russian officials believed to oppose dismantlement of Russia's chemical weapons stockpile, or who oppose Russian ratification of the CWC? Please declassify these reports provide them to the Committee.

(2) The Central Intelligence Agency stated in a report in March, 1995, that "some CW-capable countries that have signed the CWC show no signs of ending their programs." Does the intelligence community believe that Russia intends to forgo all aspects of its chemical weapons program?

(3) Is it the case that Russia has not yet constructed even a pilot chemical weapons destruction facility? Is it also true that the Shchuch'ye Implementation Plan exists only on paper, and that the plan does not yet even include such rudimentary components as baseline data, engineering survey data, or a site feasibility study? How many years will finalization of these critical elements of the Russian destruction program take?

(4) On June 23, 1994, the then-Director of Central Intelligence, R. James Woolsey, stated that the U.S. had "serious concerns over apparent incompleteness, inconsistency and contradictory aspects of the data" provided to the United States by Russia regarding its chemical weapons program. How will Russian withdrawal from the BDA affect U.S. efforts to resolve questions regarding "contradictions" in Russia's declarations about its chemical weapons stockpile? Is the Administration prepared to challenge immediately the veracity of Russian reporting under the CWC if Russia provides data which mirrors that provided to the United States under the 1989 Wyoming Memorandum of Understanding?

(5) Dr. Vil Mirzayanov, former chief of counterintelligence at the State Union Scientific Research Institute for Organic Chemistry and Technology, has alleged that Russia has produced a new class of binary nerve agents five to eight times more lethal than any other known chemical agent, and that work may be continuing on these chemical weapons. Is the Administration satisfied that the Russian Federation has indeed ceased the development and/or production of all offensive chemical weapons agents?

I will appreciate your assistance in resolving these questions which concern issues which so directly impact on the national security of the United States.

Respectfully,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 26, 1996.

The PRESIDENT,
The White House
Washington, DC.

DEAR MR. PRESIDENT: When I wrote to you on June 21 regarding perhaps the most significant, ominous shift in Russian arms control policy since the end of the Cold War, I respectfully requested, among other things, information from the Administration concerning reports that Russia will not implement the six-year old U.S.-Russian Bilateral Destruction Agreement (BDA) or pursue ratification of the CWC in the near future.

Mr. President, since writing to you, my concerns as to whether Russia intends to implement the BDA and ratify the CWC have been confirmed beyond peradventure. To be specific: Russian Prime Minister Chernomyrdin wrote to Vice President Gore on July 8, stating officially that both the BDA and the Wyoming Memorandum of Understanding (MOU) have outlived their usefulness to Russia. Moreover, it has been established that Prime Minister Chernomyrdin (1) linked Russian ratification of the CWC to U.S. agreement to a Joint Statement linking ratification by the United States to Russian ratification, (2) stated that the American taxpayers must pay the cost of the Russian destruction program, and (3) linked ratification to U.S. acquiescence to Russia's position on conversion of its chemical weapons facilities.

Even more disturbing is the report that the Prime Minister declared that if the CWC enters into force without Russia, it will be impossible for Russia ever to ratify the treaty.

Mr. President, the Russian Federation appears to anticipate that due to intense U.S. diplomatic lobbying the CWC may enter into force this summer. I am concerned that U.S. efforts at inducing nations to ratify the treaty, and bring it into force before the views of the United States Senate have been expressed on the CWC, have virtually ensured that neither the United States nor Russia will have a hand in finalizing the 37 uncompleted implementation procedures of the treaty. Once 65 countries have ratified, all manner of detailed guidelines affecting the CWC's verification regime, ranging from the conduct of inspections to the safeguarding of samples transferred for analysis off-site, will be finalized rapidly.

Prime Minister Chernomyrdin's letter was clear: "Speaking candidly," he wrote "I shall say that the Convention's entry into force without Russia would hamper its ratification with us." On July 22, 1996, the Russian delegation in The Hague repeated this position, stating that "the entry into force of the Convention without Russia, to be perfectly candid, would hamper its ratification in our country."

Since Russia is bound to know that the treaty will enter into force without Russia's participation, is it not evident that Russia is preparing a diplomatic exit strategy from the CWC?

The Senate needs to be informed by the Administration precisely how Russian withdrawal from the BDA and the Wyoming MOU will affect U.S. efforts to resolve questions concerning Russia's various declarations about its chemical weapons stockpile.

The Director of Central Intelligence, James Woolsey, testified on June 23, 1994, that the U.S. had "serious concerns over apparent incompleteness, inconsistency and contradictory aspects of the data" submitted by Russia under the Wyoming MOU.

So, Mr. President, if Russia is now refusing to answer any more questions about the size of its chemical weapons stockpile or its binary weapons program (which it has failed to mention at all), does this not cast doubt as to whether Russia will ever fully disclose its chemical weapons activities? Is the Administration prepared to challenge immediately the veracity of Russian reporting under the CWC if Russia provides data which mirrors that provided to the United States under the Wyoming MOU?

Additionally, given that the bilateral inspection regime (under the BDA) was to have substituted for multilateral inspections under the CWC, does Russian withdrawal from the BDA lower the intelligence community's already poor level of confidence in its ability to monitor Russian treaty compliance?

Mr. President, I respectfully reiterate my request for detailed, and unclassified responses to the questions I asked of you on June 21, 1996. I also will appreciate your providing to the Committee:

(1) the Chernomyrdin letter of July 8, 1996, which I understand must be unclassified since it was transmitted by facsimile around Washington on unsecured lines;

(2) all assessments by the intelligence community discussing the views of Prime Minister Chernomyrdin towards the BDA, the CWC, and any assessments as to whether he favors complete elimination of Russia's chemical weapons arsenal;

(3) the draft Joint Statement and all relevant documents supplied by Russia to Vice President Gore prior to the President's Moscow Summit;

(4) a detailed assessment of discrepancies in Russia's Wyoming MOU data and the results of any bilateral discussions regarding those discrepancies;

(5) a detailed assessment by the intelligence community of the impact that nonimplementation of the BDA and Wyoming MOU will have upon the U.S. ability to monitor Russian compliance with the CWC;

(6) a detailed estimate of the additional cost to the United States of implementing the CWC without the BDA in place;

(7) an estimate of the total cost of destroying Russia's chemical weapons stockpile; and

(8) all documents relating to any discussions with or assurances made to Russia by the Administration regarding U.S. assistance to the Russian destruction program.

In closing, Mr. President, I should note for the record that the unanimous consent agreement in the Senate (to proceed to consideration of the CWC on or before September 14, 1996) is predicated entirely upon the administration's providing "such facts and documents as requested by the Chairman and ranking minority member of the Foreign Relations Committee."

I hope we can work together on this matter. I will appreciate your assistance in resolving these questions concerning issues which so directly impact on the national security of the United States and the American people.

Respectfully,

JESSE HELMS.

Mr. HELMS. Mr. President, we are all aware of how the administration has refused, refused to provide the Senate, despite my repeated requests, my repeated entreaties to them, to give us an updated assessment of the Russian position regarding the BDA and the CWC.

Russian Prime Minister Chernomyrdin wrote to Vice President GORE on July 8, 1996 stating that both the BDA and the 1989 Wyoming memorandum of understanding have outlived their usefulness to Russia, don't you see. Moreover, the Prime Minister, one, tied Russian ratification of this treaty, the CWC, to United States agreement to a joint statement linking ratification by the United States to Russian ratification; two, stated that the American taxpayers—get this—the American taxpayers must pay the cost of the Russian destruction program; and three, he linked ratification to United States acquiescence to Russia's position on conversion of its chemical weapons facilities. The shift in Russian arms control policy, you see, will have important ramifications.

First, the minimalist approaches taken by Russia in its data declaration on the Wyoming memorandum of understanding will go unresolved. Russia has stated that the total size of its stockpiled chemical weapons is equivalent to 40,000 tons of agent. This declaration is absolutely untrue. The Director of Central Intelligence, James Woolsey, testified before the Foreign Relations Committee on June 23, 1994, that the United States had "serious concerns over apparent incompleteness, inconsistency and contradictory aspects of the data" submitted by Russia under the Wyoming MOU. On August 27, 1993, Adm. William Studeman, Acting Director of Central Intelligence, wrote to Senator GLENN stating:

We cannot confirm that the Russian declaration of 40,000 mt is accurate. In addition, we cannot confirm that the total stockpile is

stored only at the seven sites declared by the Soviets...

Articles in both the Washington Post and the Washington Times alleged that the Defense Intelligence Agency has estimated the Soviet stockpile could be as large as 75,000 metric tons.

Omissions in Russia's MOU data declarations have clear implications for how Russia will interpret the various provisions of the CWC. Because the BDA mandates annual updates to the Wyoming MOU, Russian withdrawal from the BDA may also signal that Russia will henceforth refuse to entertain any additional United States questions about the size of its chemical weapons stockpile or its binary weapons program. Senators should be concerned that Russia may intend to provide to the OPCW data which mirrors that provided under the Wyoming MOU. This would, in this Senator's view, serve as a clear indicator that Russia intends to violate the CWC.

Second, Russia has consistently refused to provide information on the status of its binary chemical weapons program. On June 23, 1994, then-Director of Central Intelligence James Woolsey declared that "the data we have received from Russia makes no reference to binary chemical weapons or agents. That is contrary to our understanding of the program that was initiated by the former Soviet Union."

Dr. Vil Mirzayanov, former chief of counterintelligence at the State Union Scientific Research Institute for Organic Chemistry and Technology, has stated that the Russian Federation may continue work on novel nerve agents far more lethal than any other known chemical agents—substance A-230, substance 33, and substance A-232. In an article in the Wall Street Journal on May 25, 1994, Dr. Mirzayanov wrote:

It is very easy to produce binary weapons without detection under the guise of agricultural petrochemicals. The products easily pass all safety tests and become registered with the government as legitimate commercial products. The plant receives a license for production and goes into operation. Neither the firm's leaders, its staff, nor international inspectors know that the chemicals are a component of a new binary weapon.

As the public talks toward banning chemical weapons progressed, the more intense became Russia's secret development and testing of binary weapons... our laboratories created Substance A-230, a weapon about which I can only say that its killing efficiency surpassed any known military toxin by a factor of five to eight.

...Two more major achievements took place in 1990 and 1991. First, a binary weapon based on a compound code-named Substance 33 passed site tests and was put into production for the Soviet army.

...The second development was the synthesis of a binary weapon based on Substance A-232, a toxin similar to A-230. This new weapon, part of the ultra-lethal "Novichok" class, provides an opportunity for the military establishment to disguise production of components of binary weapons as common agricultural chemicals; because the West does not know the formula, and its inspectors cannot identify the compounds.

...Fifteen thousand tons of Substance 33 have been produced in the city of Novocheborksarsk... But our generals have told the U.S. that Novocheborksarsk is turning out another substance known as VX.

Dr. Mirzayanov and other dissident Russian scientists have claimed that Russia's binary weapons program has been specifically crafted to evade detection under the verification regime of the CWC. They allege that components for the binary agents have been given legitimate commercial applications, that they are not covered under the CWC's schedules, and that OPCW inspectors will not know what they are examining when they come across such chemicals. The United States should not ratify the CWC until Russia agrees to forgo this abhorrent program.

Third, the BDA provides for United States on-site inspections of Russian storage, destruction and production facilities, combined with data declarations. The United States can expect to gain real monitoring benefits from the CWC only if the Bilateral Destruction Agreement [BDA] is implemented. This agreement provides for United States on-site inspections of Russian storage, destruction and production facilities. Without the BDA, the United States will be forced to verify Russian CWC compliance based upon a smaller number of inspections than anticipated under the bilateral arrangement, with inspections of Russian sites by the OPCW rather than by United States personnel, and with no guaranteed United States access to detailed inspection data. In other words, the intelligence community's already poor confidence level in its ability to monitor Russian treaty compliance will fall even lower.

Fourth, Russian insistence on excluding several of its chemical weapons-related facilities from the BDA's definition of "chemical weapons production facility," and hence from the CWC's definition, relates directly to its desire to maintain a clandestine chemical weapons production capability. The United States refusal to accede to the Russian position, which would have—in turn—strengthened the Russian case for facility conversions under the CWC, may be a primary reason that Russia has refused to implement the BDA. We should not, under any circumstance, allow Russia to exclude its chemical weapons facilities from inspection.

Moreover, without the bilateral agreement the OPCW will increase the size of its international inspectorate and purchase of additional equipment. This will drive up vastly the expected costs of the regime. Further, the CWC requires States Parties to pay for monitoring of their chemical weapons production, storage, and disposal facilities.

Mr. President, I guess we ought to respond once more—it is an exercise in futility, but we ought to keep responding to that old litany that we have heard this day about making the United States ratification of the CWC contingent upon Russia's acting first.

Let us look at a little bit of history. This Senate approved the START II treaty amidst a clamor of claims by the administration that a failure to act was preventing Russian approval of that treaty. Does anybody hear anything familiar about that? More than 15 months have passed and the Russian Duma still has not approved START II. Instead, the Russian leadership rendered ratification of the START II treaty contingent upon United States acquiescence to Russian interpretation of, get this, the 1972 Anti-Ballistic Missile Treaty and now the Chemical Weapons Convention is being tied to NATO enlargement and other issues.

Mr. President, surely, surely, Senators will not fail to refuse such linkages, and the best way to do it is to require, to stipulate unmistakably that Russia must act in good faith and ratify the Chemical Weapons Convention first. Indeed, in his letter to Vice President Gore, the Prime Minister of Russia stated that the United States should wait for Russia.

I urge Senators to reject that motion to strike.

I yield the floor. I do not know who has been waiting the longest.

Mr. WARNER. I think the Senator from Oklahoma, Mr. President, has been waiting longer than I. I will follow him.

Mr. HELMS. I did not see anybody over here.

Mr. LEVIN. Senator WARNER is going to get part of our time.

Mr. INHOFE. I think Senator WARNER should go ahead since we are going back and forth across the aisle.

Mr. LEVIN. I yield 5 minutes to Senator WARNER.

The PRESIDING OFFICER. The Senator from Michigan yields to the Senator from Virginia.

Mr. WARNER. Mr. President, I was asked by a reporter my view of the distinguished majority leader's role in this very important debate, and I replied, without hesitation, that the tougher the issue, the closer the division within the ranks of the Senate and most particularly within our party, the tougher the leadership challenge. I am proud to join others in saying our leader has met that challenge.

Likewise, my distinguished colleague and friend from day one in the Senate, the senior Senator from North Carolina, together with Senators KYL and SMITH and INHOFE, have met the challenge. They have ensured that the Senate has conducted a full and thorough debate on this treaty, and they have been instrumental in achieving the 28 conditions which have been adopted by the Senate. Those conditions have improved the document which the President submitted to the Senate in 1993.

There is a clear division within the ranks of Republicans on this issue, and it has been a conscientious and thoughtful process by which each has reached his or her position.

Now, Mr. President, to go to the subject itself. I will not go into the details of this treaty. I would like to speak to the broader issue.

I first learned of chemical weapons at the knee of my father who was a surgeon in the trenches in World War I. He described to me in vivid detail how he cared for the helpless victims of that weapon.

On through my years on the Armed Services Committee, where I was the point man in the 1980's to drive through the legislation for binary chemical weapons because I wanted this country to be prepared to deter the use of those weapons. And, then, through the Reagan-Bush era, our Nation has come full circle, and decided to lead in the effort to eliminate these weapons. Whether that can be done I know not, nor does anyone. But we cannot turn back now from that leadership role.

This treaty does not meet my full expectations. But I think we can fight better in the arena, in the ring, to improve this treaty than were we to stay outside and peer over the ropes. It is for that reason that I shall cast my final vote in support of this convention.

I recall the ABM Treaty. I was in Moscow as a part of President Nixon's team, as Secretary of the Navy. The drafters of that treaty put their minds to dealing with the threat at that period of time. They never envisioned, nor could they envision, a decade or two decades hence, what the scientific community might produce. Therein we have made a mistake as a nation by not adapting that treaty over time to deal with technological developments. I shall continue to fight very vigorously to see that that treaty does not become written in stone so as to block the efforts of our Nation to properly defend itself against attack from short-range missiles.

I cite that as an example, because technology is outpacing what the best minds in this Nation can draft—whether it is a treaty or a law. We have to look upon this treaty—as we should look upon all treaties—as a living document, a document that must be changed by the conscientious efforts of the signatories to this treaty. It must be changed to meet the advancements of technology in the area of chemical weapons; it must be changed to address the concerns that have been raised during this debate.

Like our Constitution—a document that has lived and survived so that we, the United States, are the oldest continuously functioning form of democratic republic on Earth—this convention must be a living document. Our Constitution has been amended. It shall be amended, perhaps, in the future. Because it is a living document. It has adapted to the many changes we have witnessed as a nation.

This treaty must be regarded as a living document and it is incumbent upon this President and his successors thereafter to work conscientiously, within the arena, to see that it is strengthened.

The work in this debate has gone far to show that it is a living document. Under the leadership of Senator HELMS and Senator LOTT we have already brought about a number of changes. The Senate may effect further changes as the evening progresses. But the important thing we must keep in mind is that this document must be regarded as one that has to be improved. And it is the leadership of the United States that must step forward to achieve that goal.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from North Carolina.

Mr. HELMS. May I ask the distinguished Senator from Oklahoma how much time he believes he will need?

Mr. INHOFE. May I have 6 minutes?

Mr. HELMS. I yield 7 minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining on the amendment.

The Senator is recognized for the remainder of the time.

Mr. INHOFE. I inquire of the Senator from North Carolina if he has other Senators requesting time?

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining.

Mr. HELMS. Yes. I think I have some time over in one corner.

The PRESIDING OFFICER. The Senator has time on the resolution, if he wishes. There are 5 minutes remaining on the motion.

Mr. HELMS. I understand that. I have 5 minutes. Then he would like 2 minutes. So take it out of the other pot.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for up to 2—up to 7 minutes.

Mr. INHOFE. Are you sure that's right?

The PRESIDING OFFICER. Yes.

Mr. INHOFE. I thank the Senator from North Carolina. I do want to address this particular amendment. Before I do, I have three articles, and I ask unanimous consent to have them printed in the RECORD after my remarks.

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

(See exhibit 1.)

Mr. INHOFE. The first one is a Wall Street Journal editorial of September 9, 1996. I will just read the last paragraph.

Ultimately the treaty's most pernicious effect is that it would lull most responsible nations into the false belief that they'd "done something" about the chemical weapons problem and that it now was behind them. Yes, the world would be a better place without chemical weapons. But this treaty's attempt to wave them away isn't going to make that happen.

The other two, one by Frank Gaffney, Jr. and the other by Douglas Feith, address the regulation problems that would come from this to literally thousands of companies throughout America. In fact, the Commerce Department guidance on recordkeeping for affected businesses runs more than 50 pages.

Mr. President, you have run companies. You know one of the major reasons we are not globally competitive here in the United States is that we are overregulated. There is a tremendous cost to these regulations. If the requirements exceed 50 pages, imagine what the companies would have to do.

Mr. President, in a way I think the other side of this has perhaps used the wrong argument. There is an argument they are overlooking, and that is it does not seem to make a lot of difference whether Russia ratifies this or not because, as we have said several times during the course of this debate, they ratified a lot of treaties, including the 1990 Biological Weapons Destruction treaty, the ABM Treaty—that goes all the way back to the 1970's—the START I, CFE, INF. And while they have ratified these, they have not complied.

There are three steps you go through. One is you have to sign them. Second, you ratify them. But, third, you have to comply. And they have been found out of compliance. I cannot imagine why we would expect that they would comply with this one if they ratified it if they have not complied with the previous ones.

The distinguished Senator from Michigan quoted, somewhat extensively, Gen. John Shalikashvili, the Chairman of the Joint Chiefs of Staff, as saying that this would have the effect of reducing the proliferation of chemical weapons.

I would only say, trying not to be redundant, if that is the case, then you are taking his word over four previous Secretaries of Defense: Dick Cheney, James Schlesinger, Don Rumsfeld, and Cap Weinberger, all four of whom said this would have the effect of increasing the proliferation of chemical weapons and their use in the Middle East.

But, one of the statements that was made by the distinguished Senator from Michigan I thought was interesting. He said, if I got it right, and correct me if I am wrong: "The single most important reason to ratify the treaty is to encourage Russia to ratify it." Again, if they do, it really does not seem to make that much difference because of their past history on what they have done.

I would like to clear up something because I think we have gone through a lot of debate on this issue. It has been clearly implied by both Republicans who are supporting the ratification of the Chemical Weapons Convention as well as Democrats who are supporting it that this was started in the Reagan administration and that Ronald Reagan was in support of a chemical weapons treaty.

I happened to run across something here that I am going to read. These are the conditions—I am going to save the best one until last—the conditions under which Ronald Reagan said he would agree to the ratification of a chemical weapons convention.

First, the condition was that strategic defense initiative and theater missile defense systems would be deployed and operational as one safeguard against cheating.

As we know, currently we do not have those in place.

Second, that the Chemical Weapon Convention's international executive council would consist of 15 members, including the United States as one of the five permanent members, just like the U.N. Security Council. The current treaty gives us a 41-member executive council, each with 2-year terms, and no permanent members; hence, no veto.

Third, that the United States would have absolute veto power over all CWC decisions. Obviously, in this one there is no veto power. Obviously, the President would not have supported this.

President Reagan also, even though it is not on my list, verbally indicated on more than one occasion that one of his conditions would be that we would not have to incur the financial responsibility, in the United States, of other countries complying with it. In fact, right now our compliance costs on this convention appear to be, according to the Foreign Relations Committee report, $13.6 billion and the cost of Russia complying with this would exceed that.

It has been stated on this floor many times that Russia has somewhere between 60 and 70 percent of all the chemical weapons in the world, so, obviously it would be more than that. What is Russia going to do? Are they going to comply? Let us say they go ahead and ratify. If they ratify it, you know, everyone in this Chamber knows, that they are going to look to the United States to pay for their obligation under the treaty. That is what they are doing on START II. In fact, I have to go back and make that statement also, that we are hearing this same argument all over again right now that we heard 2 years ago. Mr. President, 2 years ago we stood in this Chamber and they said: If we don't ratify this, Russia won't ratify it. Here it is 2 years later and Russia has not ratified it.

So I think this is a very significant requirement, the fact that Ronald Reagan said—and this is a direct quote, coming out of his committee at the time—for ratification, "All Soviet obligations of previous arms control agreements would have to be corrected." And we have five such agreements that have not been corrected to date.

So, I hope no one stands on the floor the rest of the evening and talks about how Ronald Reagan would have ratified this Chemical Weapons Convention.

EXHIBIT 7

[From the Wall Street Journal, Sept. 9, 1996]

POISONS FOR PEACE

The greatest misperception about the Chemical Weapons Convention, which comes before the Senate this week for ratification, is that it can't do any harm and might do some good. Former Reagan defense official Fred Ekle aptly calls this mind-set "poisons for peace." Who could possibly be against making the world safe from the horrors of poison gas? In fact, this treaty would make the horrors of poison gas an even greater possibility.

The first problem is that many of the nations we have cause to worry about most aren't about to sign. What good is a treaty that doesn't include Iraq or Libya or Syria or North Korea? Somehow knowing that New Zealand and the Netherlands have both ratified it doesn't help us sleep more soundly.

Worse, the treaty would give all signatories access to our latest chemical technology, since Article XI enjoins signatories from keeping chemicals, information or equipment from one another. This means not only countries such as China and Russia, but also Cuba and Iran, which have both signed. In other words, forget about the trade embargoes and forget about foreign policy. The treaty would require the U.S. to facilitate the modernization of the chemical-weapons industry in a host of countries that just might use them.

The second problem is verification. No one, not even its most ardent supporters in the Administration, is naive enough to claim that the treaty is verifiable. Chemical weapons are easy to make and easy to hide. The sarin that was used in the attack in the Tokyo subway last year was concocted in an 812 room. Instituting snap inspections of companies that make or use chemicals isn't going to stop a future Aum Shinri Kyo. Nor is it going to stop a determined government.

In addition, the inspection and reporting procedures required under the treaty would be a huge burden on American business, which of course would become even more nervous about industrial espionage. Senator Jon Kyl estimates that up to 10,000 American companies would be affected at a cost approaching $1 billion a year. Every company that uses or produces chemicals would fall under the long arm of the treaty—companies like Pfizer and Quaker Oats and Strohs Brewery and Maxwell House Coffee and Goodyear Tire. Dial Corp., which uses 5,000 different chemicals to produce an array of household products, estimates that it will have to spend $70,000 a year to meet the treaty's reporting requirements.

The small number of chemical companies that make the lethal stuff would of course be covered, too, and much has been made of the treaty's endorsement by the Chemical Manufacturers Association, which represents just 190 member companies and had a hand in formulating the treaty's verification procedures. The industry is already very heavily regulated, and the treaty's inspection and reporting requirements wouldn't be much of an additional burden. It also can't hurt that the treaty would increase its members' trading and sales opportunities thanks to Article XI.

The list of problems with the treaty goes on and on. Constitutional scholar Robert Bork raises the possibility that the verification requirements might violate the Constitution's ban on search and seizure, and its property rights guarantees. The Pentagon isn't happy with it since, under the Clinton Administration's interpretation, it would prohibit the military from using non-lethal chemical agents. It's not hard to imagine a scenario in which the Army is forced to shoot people because it's not permitted to use tear gas.

Ultimately the treaty's most pernicious effect is that it would lull responsible nations into a false belief that they'd "done something" about the chemical weapons problem and that it now was behind them. Yes, the world would be a better place without chemical weapons. But this treaty's attempt to wave them away isn't going to make that happen.

[From the Washington Times, Sept. 4, 1996]

IMPENDING CWC DEBATE

(By Frank Gaffney, Jr.)

There is a certain irony to the timing of the looming Senate debate on the Chemical Weapons Convention. After all, in a sense this treaty was the direct result of one of Saddam Hussein's earlier genocidal operations against the Kurds of Northern Iraq. It came about after the abysmal 1989 conference in Paris where scores of nations could not being themselves even to cite—let along condemn or sanction—the Iraqi government for its use of chemical weapons against its own people, let alone the Iranian military. Such attacks directly violated the existing "international norm" on chemical warfare: the 1925 Geneva Protocol banning the use of chemical weapons.

In a bid to deflect criticism for the international community's failure to enforce one relatively verifiable arms control treaty, the politicians and diplomats decided to negotiate a new, utterly unverifiable agreement. After four years of further negotiations in Geneva, a brand new "international norm" against chemical warfare was minted: the Chemical Weapons Convention (CWC).

Now, readers of this column learned last week that, quite apart from the problems with this treaty from the standpoint of its verifiability and enforceability, there are a number of questions that have been posed about how the CWC has been affected by Russian bad faith and other changed circumstances since the United States signed up in 1993. Such questions were supposed to have been answered before the Senate considered this accord on or before Sept. 14. As the answers are inconvenient (for instance, confirmation that Moscow is welching on a 1990 Bilateral Destruction Agreement and demanding that the West pay the estimated $3.3 billion it will take Russia to dismantle its vast chemical arsenal), it has employed its favorite tactic with regard to congressional information requests: Stonewall.

Since that column was written, however, the administration's machinations on behalf of the Chemical Weapons Convention have, as Alice said of Wonderland, become "curiouser and curiouser." This is particularly evident in the Clinton teams's efforts to dissemble about what the CWC won't do—and what it will.

For example, the administration convened a series of briefings for Senate staffers over

the August recess. In these lopsided sessions, a gaggle of 15 or more executive branch officials harangued three of four folks from Capitol Hill, in some cases for hours on end. Unfortunately, the briefers repeatedly misled the staffers—notably with respect to the costs of the CWC to American taxpayers and to thousands of American companies. Among other things, the administration is significantly low-balling the U.S. portion of the expenses associated the new U.N.-style international bureaucracy created to gather data and conduct inspections. Clinton officials have also minimized the likely loss of proprietary data when a company's sensitive facility is gone over for up to 84 hours by inspectors who will be, likely as not, detailed from foreign commercial espionage organizations.

Incredibly, even some of the companies at greatest risk appear to be susceptible to the administration's disinformation on this score. Take, for example, an Aug. 7 letter to Sen. Richard Lugar from the Pharmaceutical Research and Manufacturers of America (PhARMA), a trade association for some of the nation's most cutting-edge biotech firms. Clinton officials reportedly induced PhARMA's president to tell the treaty's top Senate cheerleader that it supported the CWC with the promise that the administration would not allow the CWC's verification protocol to be extended to the existing (and similarly unmonitorable) Biological Weapons Convention.

PhARMA's members clearly understand an important reality: If, under the biological weapons treaty, America's pharmaceutical manufacturers were subjected to a reporting and inspection regime similar to that of the CWC, they could lose their shirts. After all, on average these companies invest 12 years and some $350 million to produce a new breakthrough drug. Trial inspections suggest that a single on-site, inspection by a trained intelligence operative could greatly reduce, if not wipe out, the competitive advantage acquired at such a high price.

The only problem with PhARMA's stance is, that many of its member companies will find themselves subjected to precisely that danger under the terms of CWC. So might a great many other companies having nothing to do with chemical weapons and in industries as diverse as automotive, food processing, electronics, alcohol distilling and brewing, oil refining, soap and detergents, cosmetics, textiles and paint and tire manufacturers. Among the companies listed on a recent Arms Control and Disarmament Agency list of businesses "likely" to be affected by the CWC's various requirements are: Eli Lilly, Sherwin-Williams, Nutrasweet, Jim Beam, Archer Daniels Midland, Lever Brothers, Kaiser Aluminum, Goodyear Tire and Rubber, Xerox Raythoen and Conoco. If the trade associations representing these major American businesses are operating under illusions similar to PhARMA's their member companies may wish to join the call for a "time-out" on Senate action on the CWC.

Some senators may be tempted to ignore the administration's stonewalling of legitimate and troubling questions relevant to the CWC that have been posed by their own leadership. Some may consider the administration's understanding of the treaty's associated costs and its inflating of the claims benefits to be business as usual for the Clinton team. It is, however, very much to be hoped that at least 34 members of the U.S. Senate will refuse to tolerate such behavior and, insist that consideration of the Chemical Weapons Convention be postponed until corrective action can be taken and, failing that, that the convention be defeated outright.

[From the San Diego Union-Tribune, Sept. 8, 1996]

"OPEN UP IN THE NAME OF THE . . . ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS?"

(By Douglas J. Feith)

The Chemical Weapons Convention would be the first arms control agreement to reach into the lives of non-military U.S. businesses and impose costs and regulatory burdens.

It would oblige the government to adopt implementing legislation to compel a wide range of American businesses—including tire, paint, pharmaceutical, fertilizer and electronics manufacturers, distillers, food processors and oil refiners—to keep special records. (The Commerce Department guidance on record-keeping for affected businesses runs more than 50 pages.)

Affected businesses would be forced to submit to routine and possibly "challenge" inspections by officials of an international organization—the Organization for the Prohibition of Chemical Weapons. The warrantless inspections, which may run afoul of U.S. constitutional rights under the Fourth and Fifth Amendments, could jeopardize important private proprietary information.

The regulatory cost is just one of a number of flaws. In the final analysis, what the CWC amounts to is a general declaration, a statement of disapproval of chemical weapons that would be made sincerely only by the world's law-abiding nations. The treaty would accomplish little more than the typical United Nations General Assembly resolution. Such rhetorical exercises are not necessarily bad or useless, but they do not amount to a whole lot.

We would favor paying a substantial price for a ban on chemical weapon possession if such a ban covered the relevant countries and it could be made effective through reliable detection of illegal production and stockpiling. But such results hardly seem likely. We tend to think of the Chemical Weapons Convention this way: Even a price you may be willing to pay for a new car will appear ridiculously high if you learn that the car cannot be made to drive.

Mr. LEVIN. Mr. President, I yield 2 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I strongly support this treaty, and I strongly urge the Senate to ratify it.

In a sense, this debate is as old as America. Two centuries ago, with our independence newly won, the Founding Fathers urged us to beware of "entangling foreign alliances." They wrote into the Constitution a requirement that any treaty with foreign nations must be confirmed by a two-thirds vote of the Senate.

By any rational standard, this treaty meets that test.

Nevertheless, the treaty is being opposed by an entrenched band of foreign policy ideologues and isolationists who think the United Nations is the enemy and who say the arms race should be escalated, not restricted. History proved their ilk wrong once before, when they sank the League of Nations in the 1920's. And it will prove them wrong again with far more drastic consequences than World War II, if they prevail today.

We cannot let that happen. The Senate should reject the remaining killer amendments, and give this treaty the two-thirds vote it needs and deserves.

The 29-year-old pursuit of a chemical weapons treaty has finally reached its moment of truth in the U.S. Senate. Few votes cast in this Congress or any Congress are likely to be more important.

The effort to achieve this treaty was launched in 1968, and its history is genuinely bipartisan. It has moved forward under Republican and Democratic Presidents alike. In 1968, the final year of the Johnson administration, international negotiations began in Geneva to build on the 1925 Geneva Protocol and try to reduce the production of chemical weapons.

In the 1970's, President Gerald Ford had the vision to take that initiative a major step forward during intense international negotiations.

President Ronald Reagan advanced it to the next stage with his efforts on arms control in the 1980's. And President Bush deserves high praise for embracing the ideal of eliminating chemical weapons, for making it a serious worldwide effort, and at long last bringing it to the stage where it was ready to be signed. In one of his last acts in office, George Bush signed the treaty, on January 13, 1993.

President Clinton formally submitted the Chemical Weapons Convention to the Senate for its advice and consent later that year. Now, it's our turn. Today, the Senate can and should join in this historic endeavor to rid the world of chemical weapons. We can bestow a precious gift on generations to come by freeing the world of an entire class of weapons of mass destruction.

The chemical weapons treaty bans the development, production, stockpiling, and use of toxic chemicals as weapons. Previous agreements have merely limited weapons of mass destruction. But the Chemical Weapons Convention sets out to eliminate them from the face of the earth.

The United States has already taken many steps unilaterally to implement a ban of our own. As long ago as 1968, this country ordered a moratorium on chemical weapons production.

When President Bush signed the treaty on behalf of the United States, he also ordered the unilateral destruction of the U.S. stockpile of these weapons. Regardless of the treaty, the United States is destroying its chemical weapon stockpile.

Today culminates many years of work and compromise. The Senate has held 17 hearings on the convention. Every issue has been exhaustively analyzed. The result is the shoot-out that the leadership has arranged today on this series of killer amendments.

Bipartisan negotiations have achieved agreement on 28 amendments to the treaty, none of which go to the heart of the treaty and many of which help to clarify it.

But five major issues have not yet been settled. The five amendments, on which we are voting today, seek to settle differences of opinion the wrong way. They are killer amendments. I hope the Senate will note "no" on all of them. If any of them passes, it will doom our participation in the treaty, and relegate us to the company of outlaw regimes like North Korea and Libya, who also reject the treaty.

Two of the killer amendments condition our participation on whether other nations—Russia, Iran, Iraq, Syria, and China—have already become participants. Essentially, they would hand over U.S. security decisions to those nations.

A third killer amendment arbitrarily excludes all representatives from certain other countries from participating in verification inspections. This amendment ignores the ability that the treaty already gives us to reject any inspectors we believe are not trustworthy.

A fourth killer amendment omits and alters other key parts of the treaty that deal with the export of certain materials. Its proponents fear that rogue nations may gain valuable technology from us.

Nothing in the convention requires the United States to weaken its export controls. Experts in the chemical industry, trade organizations, and government officials have worked to ensure that nothing in the treaty threatens our technology and industrial power.

The fifth killer amendment places an unrealistically high standard of verification on the treaty. It requires the treaty verification procedures to accomplish the impossible, by being able to detect small, not militarily significant, amounts of dangerous chemical meterials.

No international agreement can effectively police small amounts of raw materials that might possibly be used in chemical weapons production. Every effort is being made and will be made to make the detection procedures as effective as possible. It is hypocritical for opponents to attempt to scuttle this treaty because they feel it does not go far enough.

The overwhelming majority of past and present foreign policy officials, military leaders, large and small businesses, Fortune 500 companies, Nobel laureates, veterans organizations, religious groups, environmentalists and public interest groups are united in their strong support of the convention. It is a practical international agreement with practical benefits for the United States, and the United States should be a part of it.

Mr. BIDEN. Mr. President, how much time do I have on this amendment?

The PRESIDING OFFICER. The Senator from Delaware has 5 minutes 45 seconds.

Mr. BIDEN. Mr. President, unless there is someone in opposition, I yield as much time of the remaining time that my colleague from Pennsylvania would like to the Senator from Pennsylvania, Senator SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. BIDEN. Mr. President, I would like to reserve 30 seconds of whatever my time is.

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

Mr. SPECTER. I thank my colleague from Delaware for yielding the time.

Mr. President, on the pending issue, having studied the conditions as to what is sought here by way of preliminary action by Russia before ratification should occur by the United States, it is my strong view that we really ought not to play Gaston and Alphonse with the Russians to require them, as article C does, for Russia to deposit their ratification before the United States ratifies.

I think that that sets up a condition which is just not reasonable. If they took the same position, as Alphonse and Gaston, no one would ever enter the door.

With respect to the other conditions which are set forth here, all of the substantive matters would be superseded by the Chemical Weapons Convention, that the requirements set forth in this treaty would impose more obligations on Russia than are contained in these instruments.

And under instrument A, where it is talked about, an agreement between the United States and Russia, that was never formalized into an agreement because all terms were never agreed to by the parties, so that this is not a condition which adds any measure of safety to the United States since all of the requirements imposed on Russia in these collateral arrangements would be superseded and more stringent requirements would be added by the Chemical Weapons Convention.

Mr. President, I compliment my colleagues on both sides for what I believe has been a very, very constructive debate in the highest tradition of the U.S. Senate. I compliment the distinguished chairman of this committee, Senator HELMS, for his determination.

And it is noted that some 28 of the 33 conditions have been agreed to. Even beyond those conditions, the President today, in writing to the distinguished majority leader, has articulated further safeguards which would be present so that in sum total we have an agreement which, while not perfect, advances the interest of arms control.

In my capacity as the chairman of the Senate Veterans Committee, I have chaired hearings on the issue of the gulf war syndrome where there is evidence that our veterans in the gulf were damaged by chemical substances, not conclusively, but that is the indication, and that had such a treaty been in effect, again, not conclusive, but a strong indication, that our troops might have been saved to some extent.

And certainly if we intend to take a firm stand on a moral plane, the United States has to be a part of this covenant to try to reduce chemical weapons. And this treaty goes a substantial way.

And the search and seizure provisions are adequate to protect constitutional rights, a field I have had substantial experience with as a district attorney, so that there will have to be a criminal standard of probable cause.

Taken as a whole, with the additions by the President today—even though it had been made a part of the RECORD, I ask unanimous consent that, following my comments, the President's letter to Senator LOTT be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. All factors considered, this is a treaty which ought to receive Senate ratification.

EXHIBIT 1

THE WHITE HOUSE,
Washington, April 24, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: During Senate ratification proceedings on the Chemical Weapons Convention (CWC), concerns have been raised over Article X, which provides for certain types of defensive assistance in the event that a State that has joined the treaty and renounced any chemical weapons (CW) capability is threatened with or suffers a chemical weapons attack, and Article XI, which encourages free trade in non-prohibited chemicals among states that adhere to the CWC. Some have suggested that these Articles could result in the CWC promoting, rather than stemming, CW proliferation despite States Parties' general obligation under Article I "never under any circumstances . . . to assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention."

To respond to these concerns, the Administration has worked closely with the Senate to develop conditions relating to both Articles that have now been incorporated in the resolution of ratification (Agreed Conditions #7 and 15). These two conditions would substantially reinforce and strengthen the treaty by:

Prohibiting the United States under Article X from (a) providing the CWC organization with funds that could be used for chemical weapons defense assistance to other States Parties; and (b) giving certain states that might join the treaty any assistance other than medical antidotes and treatment.

Requiring the President to (a) certify that the CWC will not weaken the export controls established by the Australia Group and that each member of the Group intends to maintain such controls; (b) block any attempt within the Group to adopt a contrary position; and (c) report annually as to whether Australia Group controls remain effective.

With respect to the latter condition, I am pleased to inform you that we have now received official confirmations from the highest diplomatic levels in each of the 30 Australia Group nations that they agree that the Group's export control and nonproliferation measures are compatible with the CWC and that they are committed to maintain such controls in the future.

While supporting these guarantees and safeguards, you expressed the concern on Sunday that nations might still try to use Article X or XI to take proscribed actions that could undercut U.S. national security interests, notwithstanding the best efforts of U.S. diplomacy to prevent such actions. I am, therefore, prepared to provide the following specific assurance related to these two Articles:

In the event that a State Party or States Parties to the Convention act contrary to the obligations under Article I by:

(A) using Article X to justify providing defensive CW equipment, material or information to another State Party that could result in U.S. chemical protective equipment being compromised so that U.S. warfighting capabilities in a CW environment are significantly degraded;

(B) using Article XI to justify chemical transfers that would make it impossible for me to make the annual certification that the Australia Group remains a viable and effective mechanism for controlling CW proliferation; or

(C) carrying out transfers or exchanges under either Article X or XI which jeopardize U.S. national security by promoting CW proliferation:

I would, consistent with Article XVI of the CWC, regard such actions as extraordinary events that have jeopardized the supreme interests of the United States and therefore, in consultation with the Congress, be prepared to withdraw from the treaty.

Sincerely,

BILL CLINTON.

The PRESIDING OFFICER. The Senator from Delaware has 1 minute remaining.

Mr. BIDEN. Mr. President, let me just take the minute to say the following: If you do not like this treaty and you are not for it, vote against it. If you think this treaty makes sense, vote for my amendment, because if this treaty contains this provision, it is dead. This is a so-called killer amendment.

So those of you who have concluded you are not going to vote in the final analysis for this treaty, vote no. Those of you who have decided you want to vote for this treaty—to cut through it all—vote yes. I mean, it really is that basic, because if my motion fails to strike, this treaty is dead.

I yield back the remainder of my time, if my colleague from North Carolina is prepared to yield back his time. I am prepared to vote.

Mr. HELMS. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. All time has expired.

The question occurs on agreeing to amendment No. 48 offered by the Senator from Delaware. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 47 Ex.]

YEAS—66

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Lugar
Bingaman	Frist	McCain
Boxer	Glenn	Mikulski
Breaux	Gorton	Moseley-Braun
Bryan	Graham	Moynihan
Bumpers	Gregg	Murray
Byrd	Hagel	Reed
Chafee	Harkin	Reid
Cleland	Hatch	Robb
Coats	Hollings	Roberts
Cochran	Inouye	Rockefeller
Collins	Jeffords	Roth
Conrad	Johnson	Sarbanes
D'Amato	Kennedy	Smith Gordon H
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Domenici	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NAYS—34

Abraham	Gramm	Murkowski
Allard	Grams	Nickles
Ashcroft	Grassley	Santorum
Bennett	Helms	Sessions
Bond	Hutchinson	Shelby
Brownback	Hutchison	Smith Bob
Burns	Inhofe	Thomas
Campbell	Kempthorne	Thompson
Coverdell	Kyl	Thurmond
Craig	Lott	Warner
Enzi	Mack	
Faircloth	McConnell	

The amendment (No. 48) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. BIDEN. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, how much time is reserved for the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 14 minutes remaining on the resolution.

Mr. LEAHY. Mr. President, for the benefit of my colleagues, I will be very brief. Mr. President, I appreciate efforts of the Senator from Utah to get order, and that is no more than I could expect for somebody that bears certain similarities to the Senator from Vermont.

Earlier, the distinguished Senator from Delaware read a long list of staff and Senators and others who deserve praise for getting us as far as we are. The name of the distinguished Senator from Delaware is notably absent, and I think that those who support the CWC owe a debt of gratitude to the Senator from Delaware. In the customary practice, he left his own name off, but if I might add his name to the record and put it in.

Mr. President, I am, as you know, a supporter of the CWC. Again, I compliment what we have done. As in the test ban treaty, when countries were not coming forward, the United States unilaterally banned their own tests and then other countries joined us—not every country that has nuclear capability, but other countries did join us—and we brought the pressure forward for a test ban treaty.

The United States took an initiative with chemical weapons. We banned our own use, unilaterally. When we did that, other countries joined us. Not all countries, but other countries, most countries, joined us.

Now if we vote to advise and consent on this treaty we will have pressure, the pressure of the most powerful Nation on Earth, joined by all these other countries, pressure on the few rogue countries who have not done that. I say that, Mr. President, because there is one other weapon, a weapon that kills and maims far more people than chemical weapons. That is the weapon of antipersonnel landmines. There are 100 million landmines in over 65 countries today. As one person told me, in their country, they clear these landmines an arm and a leg at a time. Every 22 minutes an innocent civilian—almost always a civilian—is killed or injured by an antipersonnel landmine. The United States should now do the same thing they did.

The United States should do the same thing we did with chemical weapons. We should move unilaterally, ban our own use, ban our own export, ban our own production of antipersonnel landmines, expand on the Leahy legislation already passed by the House and Senate. Do that and then join with like-minded nations. There are tens of like-minded nations that have already done that.

Join with them, agree, together, that this is what we will do. It will not be every nation. It will not be some of the nations most needing to do this like Russia and China, but we will have the same moral suasion that we have with the chemical weapons convention. We can do it with chemical weapons and should. Now let us follow exactly the same step, join with the Canadians and others and do it with antipersonnel landmines. This country is capable of it. It would be a moral step. It would be a dramatic step that would help the innocent civilians who die from that.

I withhold the balance of my time and yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, we all know full well that this administration has already testified that the CWC is "effectively verifiable." The Director of the Arms Control and Disarmament Agency, John Holum, testified on March 22, 1994, that "the treaty is effectively verifiable" and that the Deputy Under Secretary of Defense for Policy, Walter Slocombe, made similar claims on May 13, 1994. However, just because administration officials have

declared the CWC to be "effectively verifiable" does not make it so.

Indeed, by making such claims the Clinton administration has done great violence to the standard of "effective verification" developed and refined by the Reagan and Bush administrations as a key criteria for arms control treaties. The definition of "effective verification" was first offered to the Foreign Relations Committee by Ambassador Paul Nitze during hearings on the INF Treaty in 1988 and subsequently further refined on January 24, 1989, by ACDA's Director, Maj. Gen. William Burns, and again in January 1992 by Secretary of State James Baker. The components of effective verification, as defined during testimony, are: (1) a "high level of assurance" in the intelligence community's ability to detect (2) a "militarily significant" violation in (3) a "timely fashion." That definition is the one used in this condition.

This yardstick of "effective verification" has been the standard against which every arms control treaty for the last decade has been measured. It should be the standard against which the CWC is measured as well.

For any arms control treaty to be effective it must be verifiable. When Vice President George Bush put forward the first U.S.-sponsored text for the CWC, he told negotiators in Geneva on April 18, 1984, that:

> For a chemical weapons ban to work, each party must have confidence that the other parties are abiding by it. . . . No sensible government enters into those international contracts known as treaties unless it can ascertain—or verify—that it is getting what it contracted for.

I could not agree more.

In my view, this standard cannot be met by the CWC. On March 1, 1989, then-Director of Central Intelligence [DCI] William Webster stated that monitoring the CWC "is going to be costly and difficult, and, presently, the level of confidence is quite low." On January 24, 1989, Director Burns noted that "verification of any chemical ban is going to be extremely difficult." ACDA's section 37 report on the CWC, submitted on March 18, 1994, states that the CWC's verification provisions, together with National Technical Means [NTM], "are insufficient to detect, with a high degree of confidence, all activities prohibited under the Convention." Then-DCI Woolsey testified on June 23, 1994 that "I cannot state that we have high confidence in our ability to detect noncompliance, especially on a small scale."

Most significantly, declassified portions from the August 1993 NIE note:

> The capability of the intelligence community to monitor compliance with the Chemical Weapons Convention is severely limited and likely to remain so for the rest of the decade. They key provision of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation determined to preserve a small, secret program using the delays and managed access rules allowed by the Convention.

With respect to military significance, General Shalikashvilli testified on August 11, 1994 that:

> In certain limited circumstances, even one ton of chemical agent may have a military impact . . . With such variables in scale of target and impact of chemical weapons, the United States should be resolute that the 1 ton limit set by the Convention will be our guide.

The bottom line is that a stockpile of 1 ton of chemical agent can prove of military significance. Unclassified portions of the NIE on U.S. monitoring capabilities indicate that it is unlikely that the United States will be able to detect or address violations in a timely fashion, if at all, when they occur on a small scale. And yet, even small-scale diversions of chemicals to chemical weapons production are capable, over time, of yielding a stockpile far in excess of a single ton. Moreover, few countries, if any, are engaging in much more than small-scale production of chemical agent. For example, according to today's Washington Times, Russia may produce its new nerve agents at a pilot plant in quantities of only 55 to 110 tons annually.

In other words, the intelligence community has low confidence in its ability to detect in a timely fashion the covert production of chemical weapons which could produce militarily significant quantities. We should not cheapen the norm of effective verifiability by claiming that the CWC meets this standard—for it patently does not.

In conclusion, verification of the CWC is plagued by the fact that too many chemicals are dual-use in nature. Chemicals used to make pen ink can be used to make deadly agent. It is impossible to monitor every soap, detergent, cosmetic, electronics, varnish, paint, pharmaceutical, and chemical plant around the world to ensure that they are not producing chemical weapons, or that toxic chemicals are not being diverted to the production of weapons elsewhere. Countries such as Russia are well aware that if they ratify the CWC, they can cheat with impunity. Indeed, on May 6, 1996 the Defense Intelligence Agency informed the chairman of the Senate Select Committee on Intelligence that Russia intends to maintain the capability to produce chemical weapons, regardless of whether or not it ratifies the CWC.

The Senate, therefore, should not agree to this treaty until U.S. intelligence capabilities have caught up with President Clinton's Wilsonian idealism.

Finally, I will say a word or two about the counter-arguments we have heard on this condition. Patently ignoring the conclusions of the Joint Chiefs, the administration has claimed that the right standard for detecting violations is not 1 metric ton, but a "large-scale, systematic effort by a potential adversary to equip its armed forces with a militarily significant chemical warfare capability * * *" It is absurd to say that if the intelligence community has high confidence in its ability to detect "any large-scale, systematic effort by a potential adversary to equip its armed forces with a military significant chemical warfare capability * * *" the CWC is effectively verifiable.

I have no doubt that it would be difficult to conceal the existence of a program the scope and size of the former Soviet Union's for example. But not one of the countries that currently envisions a need for chemical weapons intends to wage World War III and conquer Western Europe. Not one.

Again, let me reiterate just how ridiculous this argument is. Nobody—not Russia, China, Iran, Iraq, Libya, Syria, India, Pakistan, Egypt, or North Korea—is engaged in a large scale effort.

Indeed, such a certification is inherently contradictory since a country desirous of developing a militarily significant stockpile of chemical agent need not engage in a large-scale, systematic effort. The Chairman of the Joint Chiefs of Staff, General John Shalikashvilli, testified before the Armed Services Committee on August 11, 1994, that:

> Even one ton of chemical agent may have a military impact . . . With such variables in scale of target and impact of chemical weapons, the United States should be resolute that the 1 ton limit set by the Convention will be our guide.

In other words, the production of 1 militarily significant ton of agent does not require a large-scale program. To knock-out every key logistical node in Saudi Arabia, Saddam Hussein needs only a handful of SCUD's with chemical warheads. He does not need an elite force of infantry trained in chemical-environment combat.

Accordingly, the intelligence community's confidence in its ability to detect the annual production of 1 metric ton in a timely fashion is the benchmark question by which the Senate should assess the verifiability of the CWC. I urge the Senate to reject this motion to strike and to uphold President Reagan's standard of effective verifiability.

Mr. President, I ask that Senator SHELBY of Alabama be recognized next for 10 minutes. Does the Senator have somebody?

Mr. BIDEN. Mr. President, if I could ask a parliamentary inquiry. A lot of our colleagues are looking to determine when the final vote will take place. It is my understanding that the Senator from Delaware has the option to move to strike three more conditions—one relating to intelligence verification, one relating to inspectors, and one relating to articles X and XI.

On each of those motions of the Senator from Delaware, there is an hour reserved, equally divided, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. The attempt is being made, as we speak, to reduce the time on those amendments. I respectfully suggest that on the next amendment that I am going to move—my intention was to move to strike the intelligence provision—or verification, I should say, No. 33, and that instead of an hour equally divided on that amendment, I respectfully suggest we have 20 minutes equally divided on that amendment. Is that all right with the Senator?

Mr. HELMS. That will be fine, from this point. I will consume a few minutes.

Mr. BIDEN. In other words, the Senator has already spoken on the intelligence issue. The time he has spoken on it would be taken out of the 10 minutes that we are about to agree to on the amendment I have not yet sent to the desk. The Senator was under the impression I already sent the amendment to strike.

AMENDMENT NO. 49

(Purpose: To strike condition No. 33, relating to effective verification)

Mr. BIDEN. 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 Delaware [Mr. BIDEN] proposes an amendment numbered 49.

Beginning on page 65, strike line 25 and all that follows through line 3 of page 67.

Mr. BIDEN. Mr. President, I ask unanimous consent that the time consumed by the Senator from North Carolina in his previous speech be deducted from the 10 minutes of time allotted to his side, and that 10 minutes remain on the side of the Senator from Delaware on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object.

Mr. BIDEN. I ask unanimous consent that there be a total of 20 minutes on this amendment equally divided.

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

Who yields time?

Mr. BIDEN. Mr. President, on this amendment, of my 10 minutes, I will yield 7 minutes to the Senator from Rhode Island. But prior to doing that, let me say briefly what this amendment does.

This amendment strikes a condition in the treaty that sets a verification standard that, if it were in the treaty, would not be able to be met; therefore, it would kill the treaty. I will not speak more at this time.

I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. HELMS. Mr. President, just a moment. I must leave the Chamber for a few minutes. After the Senator from Rhode Island has concluded, I ask unanimous consent that the Senator from Alabama be recognized to consume our 10 minutes.

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

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I strongly support the Chemical Weapons Convention, a treaty which serves our national security interests in a number of ways. U.S. ratification would help set an international standard that would put political pressure on outlaw nations to rid themselves of chemical arsenals. This treaty will also give our intelligence community valuable new tools to combat illicit production of deadly chemicals, even among nations that do not ratify the convention.

Mr. President, ratification of the Chemical Weapons Convention by the Senate this evening would continue our Nation's proud tradition of leadership in the field of international security. We took the lead in the formation of NATO, on the containment of communism, and on the defeat of Iraqi aggression in the Persian Gulf. This evening, we can again assert our irreplaceable leadership by participating in an effort to ban chemical weapons around the world.

Mr. President, condition No. 33, which we are now debating, must be stricken in order for the United States to participate in the CWC. Condition No. 33 requires that the President—these are the conditions of condition No. 33—the President of the United States must certify with "a high degree of confidence" that our intelligence community can detect "militarily significant" violations of the convention.

Now, Mr. President, what does "militarily significant" mean? It is defined as 1 metric ton or more of these chemical weapons.

Mr. President, this condition is simply impossible to achieve. This condition would bar the U.S. participation in the CWC forever. We must understand that the convention seeks to ban chemical weapons. These weapons, by their very inherent composition, are extremely difficult to detect in relatively small quantities, such as a ton. This truth has been known from the beginning, and no one, Mr. President, has alleged that the CWC will eliminate chemical weapons from the face of the Earth.

If an individual wants to build a chemical weapon somewhere in a small shack or a cave in some remote area of the world, he or she will always be able to do so, regardless of the outcome of this vote. No treaty, no matter how it is written, will ever be able to stop such an occurrence. Our inability to verify fully the CWC is not a result of any flaws in the convention. It is due to the innate difficulty in monitoring chemical weapons and their components.

Mr. President, I also question the definition of "militarily significant quantity," as being 1 metric ton or more of chemical weapons agent. Although 1 metric ton can certainly do a lot of damage, particularly in a terrorist attack, I will defer to military experts to consider what is military significant. In testimony to the Senate, Gen. John Shalikashvili stated that tonnage is not the only factor to consider in assessing the military capacity of these weapons. To transform an illicit chemical stockpile into something militarily useful, an adversary must have vast supplies of these weapons, and he must have an infrastructure for handling them and must have troops trained in the use of these weapons.

It is these more complex activities—the training of the troops, for example—that the Chemical Weapons Convention, together with our intelligence resources, will be able to verify. As Gen. Brent Scowcroft has testified to the Foreign Relations Committee, under the CWC, it will no longer be possible for a country to buy a few pounds of these chemicals from various sources around the world to amass an abnormal supply of chemicals. Our intelligence community has, in fact, indicated on a number of occasions that this convention will provide another tool to the U.S. inventory of ways to stem worldwide expansion of chemical weapons capabilities. In brief, the Chemical Weapons Convention will supplement—it will not replace, but it will add to—ongoing efforts to monitor chemical weapons production worldwide.

Now, critics of this treaty claim it is unverifiable, that we will not be able to catch adversaries abroad who cheat. But they also allege that the CWC's verification regime, while too weak to catch those cheaters abroad, is too intrusive for American industry. In other words, it won't let us find anything abroad, but it is too intrusive for other nations as far as inspection in the United States. They can't have it both ways.

The fact is that the Chemical Weapons Convention's verification tools—in other words, how to determine whether there are weapons in other countries—go beyond those of other arms control treaties that we have approved in the Senate in the past. No treaty will ever be able to verify totally a ban on chemical weapons. Condition No. 33 is impossible to meet. The condition that is in this, which we are seeking to strike,

is an impossible condition to meet. It serves no purpose other than to prevent U.S. participation in the Chemical Weapons Convention treaty. So I urge my colleagues to support the motion to strike this amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise to address the issue of verification, and in opposition to the motion to strike condition No. 33 contained in the resolution of ratification, relating to effective verification.

I have a number of serious concerns with respect to the Chemical Weapons Convention.

As chairman of the Senate Intelligence Committee, however, I have a particular responsibility to ensure that any treaty ratified by this body can be effectively verified by the intelligence community.

If it cannot be verified, the CWC could become the means by which CWC member states, such as China and Iran, expand and enhance—rather than renounce—their CW capabilities.

In negotiating the INF Treaty, ratified in 1988, President Reagan set forth an eminently reasonable standard to guide the negotiation and implementation of arms control agreements. "Trust," he said, "but verify."

But I am afraid that the critical, second part of President Reagan's formula seems to have been forgotten with respect to this treaty. The CWC, and especially the verification regime, is based on the triumph of hope and trust over experience and history.

In its efforts to obtain ratification, the administration has—if I may borrow a phrase from a former vice-chairman of the committee, Senator MOYNIHAN—"defined verification down."

Condition No. 33 to the resolution of ratification seeks to correct that problem.

It conditions deposit of the U.S. instrument of ratification on a Presidential certification to Congress that the treaty is effectively verifiable.

This term, as used in the resolution, contains the following elements, based on the traditional definition of "effective verification":

A "high degree of confidence" in our ability to detect,

"Militarily significant violations"—meaning one metric ton or more of chemical agent—

"In a timely fashion,"—meaning detection within 1 year—and

Detection of "patterns of marginal violation over time."

Effective verification is ultimately a political judgment that must be made by the President and his national security advisors. However, a key input to this decision is the judgement of the intelligence community.

It is currently impossible to reconcile the above definition of "effective verification" with the intelligence community's own statements over the past 4 years, which is why condition 33 calls for a new Presidential certification.

I would like to briefly restate the intelligence community's key conclusions as to the verifiability of the CWC, as set forth in recently declassified material from the National Intelligence Estimate of August 1993:

> The capability of the Intelligence Community to monitor compliance with the Chemical Weapons Convention (CWC) is severely limited and is likely to remain so for the rest of the decade.

Our intelligence community is the most capable in the world today. It enjoys extensive resources, and employs an impressive variety of assets to collect information affecting our national security.

Yet with all of the sophisticated assets at our disposal, we cannot be confident of verifying this treaty.

And some of the most promising new intelligence methods which might have improved this score over the last 4 years, have been significantly underfunded by this administration.

We should look to the certification required by condition 33 as an opportunity for the President to tell us of his plans to invest in improvements to our technical collection capabilities to enable effective verification.

Therefore I strongly support condition 33 of the resolution of ratification, and oppose the motion to strike.

While most will acknowledge that we do not have the technical intelligence capabilities currently in place to provide effective verification, the proponents of the treaty place great stock in the contribution of the verification mechanisms contained in the treaty.

For example, the creation of the Organization for the Prohibition of Chemical Weapons [OPCW], and the ability of OPCW inspectors to carry out challenge inspections of suspected violations, are cited as evidence for a mechanism of effective verification.

Yet in an unclassified excerpt from the 1993 NIE on verification, the intelligence community states that:

> The key provision of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation determined to preserve a small, secret program by using the delays and managed access rules allowed by the convention.

Those, Mr. President, are not my words. Those are the words of the intelligence community describing its ability to monitor compliance with the treaty before us.

I should point out to my colleagues, in light of the fact that the National Intelligence Estimate from which I have quoted is dated August 1993, that the Acting Director of Central Intelligence, George Tenet, and other intelligence officials have confirmed on numerous occasions that the key judgments cited above are unchanged.

In an open hearing on February 5 of this year, I asked George Tenet, the acting Director of Central Intelligence, about the verifiability of the CWC. Our discussion went, in part, as follows:

Acting Director Tenet said: "We can never guarantee that a power that signs up to this agreement won't cheat. These . . . chemical and biological developments are small, they are easily hidden. They are not like big nuclear developments that have big signatures that everybody understands."

I replied: "In other words, it will be fairly easy to cheat some, wouldn't it?"

Acting Director Tenet responded: "It will be easy to cheat, Mr. Chairman."

Mr. President, the treaty before us today is deficient in many respects: both in what it does, and in what it fails to do.

As chairman of the Senate Intelligence Committee, I must therefore conclude that the greatest flaw with the CWC is that, absent a certification of effective verification, we cannot even know if it is doing what it is supposed to be doing, and we cannot know the extent to which it is failing to do what it should do: This treaty is unverifiable.

Therefore, I support condition No. 33, and oppose the motion to strike.

If I have any time left, I yield it to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the chairman for yielding to me.

Mr. President, I rise in opposition to the motion to strike condition 33, relating to effective verification.

As a member of the Senate Select Committee on Intelligence, I believe I have a responsibility to ensure that this treaty can be effectively verified by the intelligence community.

If the CWC cannot be verified to ensure that it will, in fact, eliminate the scourge of chemical weapons, then what is the point of ratifying it?

In fact, the CWC may well make things worse, not better, Some signatory countries like China and Iran will use the technology-sharing provisions of titles X and XI, combined with the cloak of international respectability they gain by joining the CWC, to advance their CW programs and exports.

Condition 33 of the resolution of ratification seeks to address the verifiability problem, by requiring the President to certify to the Congress that the CWC is effectively verifiable before submitting the U.S. instrument of ratification.

Mr. President, we have all heard what the intelligence community said about the verifiability of the CWC in its National Intelligence Estimate of August 1993, but I think this judgment is worth repeating:

> The capability of the Intelligence Community to monitor compliance with the Chemical Weapons Convention (CWC) is severely

limited and likely to remain so for the rest of this decade.

If that judgment has changed, the President should be able to provide the necessary certification. But as we well know, and as the Acting Director of the CIA George Tenet has confirmed on several occasions, that judgment has not changed. With all the assets at our disposal, the intelligence community still cannot verify compliance with this treaty.

The Senate has already discussed the classified aspects of our intelligence and verification capabilities in considerable detail in closed session, and I cannot add anything to that debate now.

What I would like to do, is provide an example of the way in which a determined proliferator can evade, and deflect, what is perhaps the most extensive scrutiny ever imposed on an unoccupied nation in peacetime. I am referring, of course, to Iraq.

Iraq is exhibit A for a number of propositions. First, Iraq is the very model of a rogue state. It is a country that has not only developed chemical and biological weapons [CBW], and come within a hair's breadth of producing a nuclear device, but has actually used chemical weapons against Iran, and against its own citizens.

Second, as a nonsignatory to the CWC, Iraq is an example of those countries that will not be constrained by the CWC, and will proceed apace with the production of chemical weapons.

Third, and this is the point I wish to focus on, Iraq is the most current example of the effectiveness—or the lack thereof—of even the most intrusive international monitoring.

Treaty supporters point to the Organization for the Prohibition of Chemical Weapons [OPCW]—and especially the ability of OPCW inspectors to carry out challenger inspections of suspected violations—as a means of effective verification.

Yet the intelligence community concludes, in an unclassified excerpt from the 1993 NIE, that:

> The key provision of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation determined to preserve a small, secret program by using the delays and managed access rules allowed by the convention.

Acting CIA Director Tenet reiterated that judgment in a letter to Senator KYL, dated March 26, 1997.

In the 6 years since the end of the Persian Gulf war, weapons inspectors from the U.N. Special Commission [UNSCOM] have combed Iraq in search of nuclear, chemical, biological, and missile production and storage sites—inspectors armed with powers far greater than those of OPCW inspectors, I might add.

Despite this extraordinary level of scrutiny, Iraq is believed to retain: chemical weapon precursors and production equipment, and possibly large quantities of deadly VX agent and munitions; BW cultures, production equipment, agent and weapons. These stocks can be used to create a large stockpile in a matter of days; and an operational SCUD missile capability, including support vehicles, launchers, fuel, operational missiles, and, most alarming of all, possible chemical or biological warheads.

Last, Iraq retains nuclear weapons blueprints, machine-tools, and know-how; is believed to be continuing its nuclear weapons design work; and probably has the ability to create a nuclear weapon—if it obtains fissile materials—with very little warning.

Mr. President, I am not reciting this information in order to criticize UNSCOM. I commend Ambassador Rolf Ekeus, and the dedicated UNSCOM inspectors, for their persistence in the face of determined Iraqi resistance and intimidation.

But if these are the results of 6 years of international monitoring of Iraq—a pariah country, defeated in war, and subjected to massive invasions of its national sovereignty—then I wonder what the OPCW inspectors, with their far more limited powers, can realistically hope to accomplish in other countries?

As a final note, I should remind my colleagues that before the gulf war, Iraq was a member in good standing of the International Atomic Energy Commission, or IAEA, subject to all the usual IAEA inspections and safeguards.

Yet Saddam Hussein was within months of having a nuclear weapons capability on August 2, 1990, when he invaded Kuwait. Had Saddam waited until he had a nuclear device, Kuwait might yet be the 19th province of Iraq—and tens of thousands of people, including thousands of American soldiers, might have died.

Mr. President, I believe that our experience with Iraq demonstrates the intractable problems posed by the verification of the CWC. Supporters of the treaty say, "But we have learned from our experience with Iraq, and we will do better next time." I cannot join them in that optimistic conclusion.

If the President of the United States cannot certify that this treaty can be effectively verified, as defined in condition 33, then the Senate should not ratify this treaty.

I oppose the motion to strike condition 33.

Mr. BIDEN. Mr. President, I yield the remainder of the time to the Senator from Nebraska.

Mr. KERREY. Mr. President, I rise today in support of striking condition 33 from the resolution of ratification of the Chemical Weapons Convention. Condition 33 would bar the United States from ratifying the convention until the President can certify with high confidence that we have the capability to detect, within 1 year of a violation, the illicit production or storage of a single metric ton of chemical agent. As the authors of this condition fully realize, this standard is unattainable and would effectively bar the United States from participation in the CWC forever.

Mr. President, I do not come to the floor as the vice chairman of the Intelligence Committee to say to my colleagues that this treaty is absolutely verifiable. The distinguished chairman of the committee indicated that Mr. Tenet, Acting Director of Central Intelligence, said it will be difficult to verify and quoted him as saying it would be easy to cheat. What he did not do, regrettably, is go on with the follow-on quote. The next sentence in his answer was, "But, in the absence of the tools the convention gives us, it will be much harder for us to apprise you"—meaning the committee—"and apprise the military and policymakers of where we think we are in the world with regard to these developments."

Let me be clear. The United States has made a decision that we are going to destroy our chemical weapons and try to lead the world in the elimination of chemical weapons. That is what this policy is all about. We didn't have this treaty presented to us. We made a conscious decision to eliminate our own chemical weapons and then try to develop a regimen that enables us to identify and detect as much as possible. Our Director of Central Intelligence, as well as our military, has indicated to us that this treaty will increase the identification that we are able to do and increase the likelihood that we will be able to end up with the result being that we have no chemical weapons in any military arsenal on this planet.

No treaty is absolutely verifiable. Condition 33 make verification more difficult by setting a level of identification, we do not need to benefit from the convention. Far more important to our security are the improvements to our identification efforts we stand to gain under the CWC.

Verification is a political decision made by policymakers. To make this decision, our intelligence agencies will need to provide evidence to support a conclusion made by policymakers. The benefits we will receive under the CWC come from our increased ability to identify whether a nation is developing, producing, and storing chemical weapons. Under the CWC's routine and challenge inspections, we will be better able to identify the storage and destruction of declared chemical weapon stocks. We will also be better able to identify a nation's attempt to develop the infrastructure to handle chemical weapons and any military training in the use of these weapons.

U.S. intelligence officials have stated that the CWC will add to their monitoring tools to counter the chemical

weapons threat. Data declarations will provide evidence of compliance or noncompliance, routine inspections make it more difficult and costly to use legitimate facilities to produce chemical weapons, and challenge inspections will give the United States the opportunity to seek further indications and evidence under the CWC.

In addition, the CWC will help stymie chemical weapons development by nonsignatory, rogue nations by restricting trade in key precursor chemicals to non-parties. Acquisition efforts for chemicals, technology, and equipment by non-signatories will provide tip-offs to pursue compliance concerns with parties who may be the source of the materials.

These are real benefits to our identification efforts that will help ensure the safety of our troops and citizens. However, if we impose an impossible standard of verification and fail to ratify the CWC, we will lose these benefits.

Further, condition 33 creates an arbitrary definition of what is a "militarily significant" amount of chemical weapons. This condition deems one metric ton of chemical weapons to be a threat to our military. But General Shalikashvili, Chairman of the Joint Chiefs of Staff, has testified that "a militarily significant quantity of chemical weapons is situationally dependent." It depends on the terrain, the weather, the number of troops, the type of chemicals used, how the chemicals are delivered, and the chemical weapons defensive system of the targeted forces. He stated that, "The quantity is totally scenario dependent, and it would be difficult to cite a specific amount as militarily significant."

During the Iran-Iraq war, both sides used tens of tons against each other without altering the course of the war. The Defense Department found that it would take several hundred to a thousand tons to seriously disrupt U.S. logistics in a war; and the United States's own stockpile of chemical weapons, which we are committed to destroy with or without the CWC, is about 30 thousand tons. One metric ton of chemical weapons, while still posing a horrible threat under some conditions, in no way is a militarily significant threat to our national security.

Without the CWC, chemical weapons production and stockpile on a small or grant scale will still be an acceptable practice. Under the CWC, not only will this no longer be acceptable, but we will have additional tools in our arsenal to identify chemical weapons programs. Since we will have to monitor this threat whether or not we join the CWC, our security interests are improved under the treaty rather than without it.

This condition must be removed from the resolution if the United States is to participate in the Chemical Weapons Convention. Therefore, Mr. President, I support striking condition 33 from Executive Resolution 75.

Mr. President, and colleagues, I believe strongly that this particular condition, regardless of how you feel about the treaty, sets an unrealistic level of requirement for verification, and under no circumstances are we going to be able to verify a ton of chemical weapons under the evaluations of the military. We do not need to accept this kind of arbitrary standard.

Mr. President, regardless of whether or not you are going to vote for or against this treaty in the end, I urge my colleagues to vote to strike condition 33.

Mr. BIDEN. I yield myself 1 minute on the time left.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Delaware.

Mr. BIDEN. Mr. President, let's get this straight. Verification is about whether or not we can know whether or not our security interests are going to be put in jeopardy. A useful chemical weapons capacity requires a lot more than just whether or not you can produce illicit chemical weapons. It requires a delivery system, infrastructure, storage, and use of chemical weapons. It includes defense preparations, extra security around the storage areas, and training and exercising of troops who will use those weapons. It goes on and on.

The ability to put together a chemical weapons capability to go undetected that will diminish our security is not real.

I yield back the time and ask unanimous consent that we defer a vote on this amendment at this moment, that we turn to my next motion to strike, which will relate to inspectors, condition 31, that there be 10 minutes equally divided on condition 31, that vote on condition 33 and on condition 31 be stacked after the conclusion of the debate on condition 31, with 15 minutes on the first vote, 10 minutes on the second vote, and with 1 minute intervening.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 50

(Purpose: To strike condition no. 31, relating to the exercise of right to bar certain inspectors)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 50.

Beginning on page 63, strike line 21 and all that follows through line 4 of page 65.

Mr. BIDEN. Mr. President, let me also say for the benefit of my colleagues that we are trying to accommodate schedules. I thank the Senators from Arizona and Georgia, who were running around trying to get their agreement. At the completion of the two rollcall votes—we are trying to get additional time on one amendment relating to articles X and XI, and we have an hour set aside for it now and we hope to reduce that time. At the conclusion of that vote we would then go to final passage, although there probably may be a few minutes intervening because each has some time left. That is the objective. Some are trying to catch planes and trains and the like.

Mr. President, let me suggest quickly what this does. The amendment that I sent to the desk strikes a condition which unilaterally says at the front end we will not allow any inspector from such states as China, Iran, and Iraq, et cetera, if they are signatories to the treaty. If they have deposited their instruments of ratification, now they are in the deal. We are saying, if they are in, we will not allow any inspector from their countries to be any part of a team that would inspect U.S. facilities.

The intention is obvious, and it is laudable. The intention is to keep the bad-guy inspectors out because we are worried that what they would do is send over an intelligence officer as part of that inspection team, learn all secrets from us and take them back home. It is not likely that can happen anyway. But let's assume it did.

The intelligence community says this is a very bad idea. The reason it is a bad idea if we do that, Mr. President, is every other country will issue a blanket rejection of any U.S. inspectors. We are the class of the field. You have heard all day—and in the closed session—my colleagues expressing their concern about verification. The more we have American inspectors involved, the more likely we are to be able to detect wrongdoing because we are the class of the field. We don't want to be excluded across the board from being on any inspection team. So, therefore, this is intended to do something good but is extremely counterproductive. It is counterproductive, and the intelligence community says so as well.

But beyond that, it is unnecessary. There is a provision. In the interest of time—we were going to have an hour of debate; I was going to put all of this out to you—but in this treaty there is a provision now that says the United States, or any other country, can at any time strike an inspector. The way this works, as most of our colleagues know, is when there is going to be a challenge inspection, or a routine inspection, there is a list of inspectors. They give the names. As few as 3 and as many as 15 inspectors are going to show up on the doorsteps of X, Y, Z company, and they list their names and their country. Guess what? Our intelligence community from the time

those names are given—it is like a jury pool. The Presiding Officer was a Federal prosecutor. It is like a grand jury. Every country submits inspectors that they want participating. Their committee picks inspectors from each of the countries. They sit in one town and one city. When an inspection comes up, they say "You, you, you, and you, go and inspect." They have to submit those names. Our intelligence community, when that pool is picked, will do a background check on every one of those guys and women. They know their names. So they can, in fact, go out there and say—we can say, or the intelligence community can say—"Look, he is on that inspection group. Strike him. We don't want him." You can do that. The only time we can't strike is when—I have a smart staff here. In the late hours they think they are humorous.

You are fired.

[Laughter.]

I am only kidding. That is a joke; a little levity at this time.

As my distinguished friend on the Intelligence Committee, formerly of my staff, wrote, "They can't strike when they are on the plane." You have to give 24 hours notice you don't want So and So in there.

So the point is you can already strike anybody. We do this in a blanket way. We knock the class of the field out of the inspection process. We don't want to do that. With all due respect, this is not a thoughtful amendment. This is counterproductive.

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. BIDEN. Mr. President, have the yeas and nays been ordered on the previous amendment? If not, I would ask for the yeas and nays on the previous amendment as well.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, if I have any time left on this, I reserve it, and I will yield the floor now for my colleague from Arizona.

Mr. KYL. I thank the Senator.

Mr. President, Senator HELMS had intended to present these remarks, and he cannot be here right at this moment. Therefore, I am going to proceed to deliver his remarks and then also yield to the majority leader should he wish to make a remark or two about this condition.

If ratified, Mr. President, the Chemical Weapons Convention would provide inspectors from foreign countries unprecedented access to U.S. facilities, both commercial and Government-related. Inspectors would be permitted to interview site personnel, inspect records, photograph onsite apparatus, take samples, record readings of plant equipment, and use instruments to monitor processes. The risk that trade secrets or national security secrets could be stolen during inspection is very high.

First, proprietary information is often the basis for a chemical company's competitive edge. Industrial espionage can enable a competitor to obtain at a minimal cost information that its originator acquired only through an enormous investment of time and money, thereby erasing the company's competitive advantage. For this reason, the theft of trade secrets can cripple even a giant company and can be fatal to a smaller enterprise.

Second, because chemicals covered by the CWC are used in a variety of aerospace activities, from the manufacture of advanced composites and ceramics to additives for paints and fuels, dozens of defense contractors are targeted for routine inspections under the CWC. That means that when we are talking about proprietary information, we may also be talking about national security information.

A company such as Lockheed Martin, Courtalds Aerospace, Hercules, Raytheon, and the Hexcel Corp. will be forced to allow foreign nationals access to their facilities, employees, and records. Our national laboratories further could be inspected under this treaty, as will Government facilities.

Previous national trial inspections conducted in the United States in preparation for the CWC revealed that inspections under the treaty are an extremely dangerous threat to sensitive information. Soil and water samples were collected in the vicinity of rocket propellant production facilities on one such inspection. They were analyzed at the Lawrence Livermore National Laboratory. Using modern techniques, analysts were able to discern classified information about the formulation of the rocket propellant and the process used to make it.

Finally, Mr. President, China and others likely intend to use CWC inspections for espionage purposes. They should not be allowed to do that. The officials of the preparatory commission for the Organization of the Prohibition of Chemical Weapons, the OPCW, have stated that all of the Chinese inspectors were directed to volunteer for the organization and that these inspectors have direct ties to China's defense chemical warfare program. Accordingly, and the point of this condition, the Senate should uphold this provision which would direct the administration to exercise a United States treaty right—as the Senator from Delaware pointed out, we have this right under the treaty—we are simply directing the President to exercise this right to bar inspectors from China, which has an active industrial espionage program and has violated United States nonproliferation laws, from entering the United States to engage in these inspections. In addition, it would prevent inspectors from countries which are hostile to the United States and are state sponsors of terrorism—Iran, Iraq, Syria, Libya, Sudan, North Korea, and Cuba—from participating in these inspections.

Mr. President, I do not think this is an unreasonable provision. There is no downside to the provision, only the positive potential that fewer trade and national security secrets would be handed over to countries that are openly hostile to the United States.

Therefore, I urge the Senate to reject the motion to strike.

At this time I yield the remaining time to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Could I inquire about how much time is remaining?

The PRESIDING OFFICER. There are 1½ minutes.

Mr. LOTT. Mr. President, I have already stated my position. I do think we should vote to ratify this convention, but I think we should defeat this motion to strike. This is not a killer amendment. This is very serious, where we are just saying that we should have the ability, the President should have the ability, to bar these inspectors from these countries that have violated U.S. nonproliferation laws. You are talking about inspectors from so-called, as the Secretary of State has called them, "rogue nations" that want to come in here and get into finding information that could help them to further contribute to proliferation.

So I urge the Senate on this motion to vote to defeat the motion to strike. We should have the ability, we should as a matter of fact I think require that we bar these inspectors from coming into this country when they are contributing to the problem all over the world. So I yield the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield myself 30 seconds off my time on the bill.

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Mr. BIDEN. Mr. President, two very quick points. The companies named by my distinguished friend, including Hercules, which is headquartered in my State, that are supposedly worried, they support this treaty. Hercules supports this treaty. They are not worried about this being trouble.

Second, this is not a killer, but it rips the heart out of our inspection regime, and I would not be objecting, I say to the majority leader, I would not be seeking to take it out if it gave the President the option. It gives the

President no option. It requires him—it requires him—to ban. And what it does again, I say to my colleagues, it then says they will ban us. We have the class of the field doing the inspection. It is not a smart thing to do, in my humble opinion.

I yield the floor.

VOTE ON AMENDMENT NO. 49

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 49. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 48 Ex.]

YEAS—66

Akaka	Feingold	Lieberman
Baucus	Feinstein	Lugar
Biden	Ford	McCain
Bingaman	Frist	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Gorton	Moynihan
Bryan	Graham	Murray
Bumpers	Hagel	Reed
Byrd	Harkin	Reid
Chafee	Hatch	Robb
Cleland	Hollings	Roberts
Coats	Inouye	Rockefeller
Cochran	Jeffords	Roth
Collins	Johnson	Santorum
Conrad	Kennedy	Sarbanes
D'Amato	Kerrey	Smith (OR)
Daschle	Kerry	Snowe
DeWine	Kohl	Specter
Dodd	Landrieu	Stevens
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NAYS—34

Abraham	Gramm	McConnell
Allard	Grams	Murkowski
Ashcroft	Grassley	Nickles
Bennett	Gregg	Sessions
Bond	Helms	Shelby
Brownback	Hutchinson	Smith (NH)
Burns	Hutchison	Thomas
Campbell	Inhofe	Thompson
Coverdell	Kempthorne	Thurmond
Craig	Kyl	Warner
Enzi	Lott	
Faircloth	Mack	

The amendment (No. 49) was agreed to.

AMENDMENT NO. 50

The PRESIDING OFFICER. Under the previous order—the Senator from Delaware.

Mr. BIDEN. I am sorry to interrupt the Chair. You were going to say 1 minute for explanation, is that correct, equally divided?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. Mr. President, the purpose of my amendment is to strike a provision in the bill that requires the President to disallow an inspector from any of a number of countries, from Russia to Iran.

There is in the treaty already the ability of the United States to strike any inspector. The inspectors must be named before an inspection takes place. The reason why we do not want a blanket exemption is, if we blanket exempt all those folks, they will blanket exempt any U.S. inspector.

We want inspectors in the bad guy's country. We do not want to do this. It is counterproductive.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let met summarize the argument the majority leader and I made in opposition to the motion to strike this condition.

The treaty currently provides for the President to say that he does not want inspectors from certain countries coming into the United States. There is a reason for that. What we are doing is directing him only in two cases to, in advance, say, these are the countries covered: Those countries that sponsor state terrorism, pursuant to our definition of that, and China because of its violation of another law.

So it is only those countries that have violated American law and who are the state-sponsored terrorists who can be denied inspectors in the United States.

The PRESIDING OFFICER. The time has expired. Under the previous order, the question now occurs on agreeing to the Biden amendment No. 50. They yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 49 Ex.]

YEAS—56

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

NAYS—44

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

The amendment (No. 50) was agreed to.

Mr. HELMS. I move to reconsider the vote.

Mr. BIDEN. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. As I understand, there is 1 hour remaining on the last amendment of the Senator from Delaware to strike condition 32, is that correct?

The VICE PRESIDENT. The Senator is correct.

Mr. BIDEN. It is my understanding the Senator from Delaware has control of an additional 8 minutes on the bill?

The VICE PRESIDENT. Fifteen minutes.

Mr. BIDEN. Mr. President, I have spoken to the majority on this. The distinguished Senator from Virginia has been waiting around patiently all day and I keep bumping him. I want to yield up to 5 minutes of my time on the bill to him at this moment, and then I will move, with permission of the chairman, to the last condition.

I yield to the Senator from Virginia.

The VICE PRESIDENT. The Senator from Virginia.

Mr. ROBB. I thank my friend and colleague from Delaware.

Mr. President, there's not much left to say about ratification of the CWC—even here in the Senate. We've had seventeen formal hearings on the topic over the last two years—both open and closed—and as a member of all three national security committees, I have participated in most of them. In addition, the salient features have been discussed in countless meetings and fora that have that have been widely reported in both print and broadcast media. Finally, for everyone involved, the moment of truth has arrived and we will cast what will certainly be one of the most important votes of the 105th Congress.

Mr. President, I have been committed to ratification for some time, but I know some of our colleagues have had reservations. There is no question that respected opponents of ratification have raised important and legitimate questions. But those questions have been thoroughly and painstakingly answered by the proponents, including and I believe that our failure to ratify this chemical weapons convention today would represent a serious setback for the United States and the entire international community and unquestionably would be viewed as a failure of leadership by the world's indispensable nation.

I will not repeat all of the arguments that have been made. In his news conference earlier today the majority leader framed the essential question. And he repeated it here on the Senate floor earlier this afternoon. And I certainly commend him for the way he responded. He asked will we be better off with or without the treaty—for me that is not a close call.

I believe we will be much better off, by any measure I can think of, if we ratify the convention.

I hope that the 28 conditions that we agreed to yesterday, and the additional reassurances provided by the President

today, will insure that at least two-thirds of our colleagues reach the same conclusion.

The United States is getting out of the chemical weapons business with or without an international agreement—and because over 70 other nations have already ratified the convention, it goes into effect on April 29th, regardless of what we do. The only matter we'll decide tonight is whether we'll be able to participate and shape banning the use, development, production, and stockpiling of chemical agents, or be cast with the pariah states that will face increasing difficulty due to permanent trade restrictions on non-CWC members.

If we want to play a leading role in at least reducing the likelihood that poison gas will be used against us or the rest of the international community, we have no choice but to ratify this convention.

Of course, there are no absolutes when it comes to arms control verification, but through the most far-reaching, extensive, and intrusive inspection procedures ever agreed to, the CWC represents a clear step in the right direction.

I do not question the patriotism of any of our colleagues who oppose ratification, but I belive we owe a special debt of gratitude to those statesmen who might find some partisan or ideological advantage in opposing ratification, but who put our country's interest first in supporting it.

In that regard, I'd like to single out our former colleague and Majority Leader, Bob Dole, who now joins the Presidents of both parties who negotiated, signed, and submitted the convention for ratification, as well as a distinguished galaxy of present and past top-level national security leaders.

And, I would like to conclude by commending Senator BIDEN, the ranking member of the Foreign Relations Committee, and Senator LUGAR, a longstanding expert in the area of arms control, for their leadership and tenacity these last few weeks. Due to their tireless efforts, I hope we will have the votes to ratify the CWC and signal to the world our continuing leadership, by example, to eliminate these weapons of mass destruction from the face of the earth.

Mr. President, I yield the floor.

AMENDMENT NO. 51

(Purpose: To strike condition no. 32, relating to stemming the proliferation of chemical weapons)

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

The PRESIDING OFFICER (Mr. ENZI). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment number 51.

On page 65, strike lines 5 through 24.

Mr. BIDEN. Mr. President, we now turn to the last condition that I am seeking to strike which will require the President, before he deposits the instrument of ratification, to certify that the Chemical Weapons Convention has been amended by striking article X and article XI in several respects.

Mr. President, I apologize for the shorthand, because it does not do justice to the arguments of my friends who oppose this, but this is what we call in the trade a killer amendment. Were this to pass, there is no treaty. I will speak to that later.

With permission of the chairman of the committee, I yield to the Senator from Arizona, Senator MCCAIN, who, as the old saying goes, has forgotten more about this treaty than most people know. I yield such time as he consumes.

Mr. MCCAIN. Mr. President, failure to approve the amendment proposed by the Senator from Delaware would require the United States to delay ratification of the Chemical Weapons Convention until we obtain the agreement of other CWC parties to delete one of the treaty's articles and significantly alter another.

I believe the issue of technology transfer is a serious one because it is the one argument that seeks to demonstrate that ratifying the CWC will actually harm the United States national security.

The critics argue because of article XI of the CWC we will have to eliminate our national controls on chemical technologies and disband the Australia Group, a multilateral framework for restraining transfers of sensitive chemical technology. This interpretation of the treaty is contradicted not only by the text of the treaty which subordinates Article XI on the basic undertakings in Article I for parties not to acquire chemical weapons or to assist another state in doing so, but also by our experience with other nonproliferation treaties and the agreed consensus conditions included in the resolution of ratification before us.

First of all, Mr. President, our experience with essentially similar language in the Nuclear Non-Proliferation Treaty shows that we need not weaken our national or multilateral export controls. The Nuclear Suppliers Group, the counterpart of the Australia Group, was actually founded after the NPT went into force. Nor has the NPT obliged us to curtail our national controls on the transfer of nuclear technology, even to other NPT parties. The United States enacted the Nuclear Non-Proliferation Act of 1978, 10 years after the NPT was signed.

Moreover, beyond the text of the CWC itself we have condition 7 of the resolution of ratification before us. This requires the President to certify not only that the United States believes that the CWC does not require us to weaken our export controls but also that all members of the Australia Group have communicated at the highest diplomatic levels their agreement that multilateral and multinational controls on sensitive chemical technology are compatible with the treaty and will be maintained under the CWC.

We also have condition 15 obliging the United States to share only medical antidotes and treatment to countries of concern if they are attacked with chemical weapons.

Finally, we have received today from the majority leader a letter which President Clinton has sent to him committing the administration to withdraw from the CWC if other parties misuse articles X and XI of the treaty. In the words of the majority leader, this commitment is unprecedented and ironclad.

Let me just remind my colleagues, Mr. President, that the President of the United States in this letter states:

In the event that a State Party or States Parties to the Convention act contrary to the obligations under Article I by:

(A) using Article X to justify providing defensive CW equipment, material or information to another State Party that could result in U.S. chemical protective equipment being compromised so that U.S. warfighting capabilities in a CW environment are significantly degraded;

(B) using Article XI to justify chemical transfers that would make it impossible for me to make the annual certification that the Australia Group remains a viable and effective mechanism for controlling CW proliferation; or

(C) carrying out transfers or exchanges under either Article X or XI which jeopardizes U.S. national security by promoting CW proliferation:

I would, [the President of the United States] consistent with Article XVI of the CWC, regard such actions as extraordinary events that have jeopardized the supreme interests of the United States and therefore, in consultation with the Congress, be prepared to withdraw from the treaty.

Mr. President, I do not know how we could be any clearer than that letter from the President of the United States.

Conversely, if the United States rejects ratification, I doubt that we will be able to play our traditional leadership role in attempting to persuade other chemical suppliers to exercise restraint.

The world will blame the United States for undermining a chemical weapons ban that the vast majority of other countries were willing to sign. If we reject ratification, where will we get the moral and political authority to persuade other Australian Group participants to block exports to countries of concern?

Mr. President, the supporters of this condition portray renegotiating the CWC to change these two articles as a feasible undertaking. We are talking about a new treaty with more than 160 other signatories, more than 70 of

which already ratified. In this context, retired Gen. Brent Scowcroft, former National Security Adviser, recently testified:

> Starting over, as was suggested this afternoon, I think it is pure fantasy. If we reject this treaty, we will incur the bitterness of all our friends and allies who followed us for ten years in putting this together. The idea that we can lead out again down a different path I think is just not in the cards. We have got to deal with the situation we face now, not an ideal one out in the future.

I think that the CWC, as we have it now and as strengthened by the 28 agreed conditions, is good enough. I urge my colleagues to adopt the amendment of the Senator from Delaware.

Mr. President, I don't—to the relief of most—intend to speak again. I want to congratulate Senator HELMS for his leadership on this issue, for his willingness to bring this treaty, which he opposed, to the floor. I congratulate Senator BIDEN for his consistent leadership. He just said that I knew more about the treaty. I know of nobody who knows more details of the treaty than the Senator from Delaware, unless it is the Senator from Indiana, Senator LUGAR, who has consistently led on this and is also responsible in the Senate for ratification of this issue along with Senator BIDEN.

I congratulate my colleague from Arizona, Senator KYL, who fought long and hard in this cause. He has done a masterful and admirable job in articulating his position on this issue. Our majority leader, Senator LOTT, has been through hundreds of hours of meetings and has had tough negotiations with the administration. Senator LOTT got from the President of the United States a letter which he calls unprecedented. I agree. I believe that it is something that can assure all of our citizens that if there are violations of this treaty, the United States of America will leave, and leave immediately. Senator LOTT has done a job unequaled by any in his leadership on this issue. I am grateful for it.

Finally, I also want to express my appreciation to the former majority leader, Senator Dole, who, of course, decided that this issue was important enough for him to inform our colleagues.

Finally, Mr. President, sometimes the Senate doesn't have great days, and sometimes the Senate has moments of which we can all be proud. I believe, watching carefully this debate for the last 2 days and what has transpired here on the floor of the Senate, I think the opponents and proponents of the treaty can be proud of the level of debate, both in its comity and also in its content. I congratulate my colleagues on a hard-fought debate, one of which I think every Member, whether we are on the winning or losing side, can be proud.

I yield the floor.

Mr. ENZI. Mr. President, one of the charges made consistently during the weeks of debate over this treaty is the charge that supporters of this treaty desired to see chemical weapons abolished from the earth, while opponents have no such interest. Nothing could be further from the truth. Opponents of the treaty also desire to see these heinous weapons abolished. We have simply contended that a poorly drafted treaty will not only fail to achieve that worthy end, but could even lead to their increased proliferation.

I am pleased to report that, as of this morning, opponents of the original treaty draft have prevailed in our efforts to add teeth and additional safeguards to what was heretofore an unacceptable document. To begin with, the Senate yesterday voted to add twenty-eight additional provisions to the CWC. These provisions tighten our intelligence sharing procedures to keep classified information out of the wrong hands, would maintain the stricter exporting restrictions as outlined in the "Australia Group" protocol, would enhance monitoring and verification of compliance, and would greatly beef up our military's chemical warfare defense capabilities. In addition, the Senate leadership this morning received a letter from the President committing him to withdrawing from the convention if it leads to the degradation of our chemical weapons defenses, or leads to chemical weapons proliferation.

I believe this treaty is now worthy of ratification and will vote accordingly. Rest assured, however, that a treaty is only as reliable as the offices administering it. Consequently I have every intention of continuously evaluating the performance of the administration and the United Nations relative to their implementation of these treaty provisions. Should any party come up short in their verification and enforcement duties, we will be right there to set them straight.

Mr. HELMS. Mr. President, I suppose, at this point, it would be an exercise in futility to go into great detail about why the Senate should reject this chemical weapons treaty. But let me touch on it. I ask the Chair to notify me when I have talked for 8 minutes.

Mr. President, this treaty won't touch—won't touch—terrorist states like Libya, Iraq, Syria and North Korea. The administration admits this itself. The administration also admits that this treaty is unverifiable. The fact that Russia is already cheating, even before this treaty goes into effect, and the rather incredible refusal by the administration to bar inspectors from hostile nations, such as Iran and China, to come and "inspect" the businesses of the United States of America. It seems to me that each of these defects, in and of themselves, are reason enough to oppose the treaty.

But one in the Senate often has to face reality. Let me say this. There is one issue that has raised the greatest concern among Senators, I believe—the issue on which the ratification vote should hinge—and that is the administration's refusal to modify Articles X and XI of this treaty.

Now, these controversial provisions require the transfer of dangerous chemical agents, defensive gear and know-how to any nation that joins the CWC, including—get this—terrorist states like Iran and Cuba, and known proliferators, such as Russia and China. Now, think of the implications of that. If anybody is out there in televisionland, I hope you will contemplate what is going on here on the Senate floor and watch who votes how when the roll is called up yonder in just a little while.

Former Secretary of Defense, Dick Cheney, during the previous public administration, the Bush administration, by the way, told the Foreign Relations Committee earlier this month that Articles X and XI amount to what he said are "a formula for greatly accelerating the proliferation of chemical warfare capabilities around the world."

Now, this condition is an essential protection in the Senate's resolution of ratification. It would make approval of this treaty absolutely contingent upon the administration's agreement to seek modifications of Articles X and XI. You have heard me say that over and over again for the past several weeks and months. Now, I have urged Senators to oppose efforts to strip out that key protection. But here we go again. If this motion to strike prevails, it will be an invitation to the Senate to reject the treaty entirely. But I don't think the Senate is going to accept that invitation.

In any case, why should we modify Articles X and XI? The administration argues that, in spite of all its flaws, the CWC is better than nothing. Well, to the contrary. With Articles X and XI unmodified, this treaty is far worse than nothing. Instead of halting the spread of poison gas, this treaty will be aiding in its proliferation by helping countries like Iran modernize their chemical arsenals, giving them access to our secrets for defending against poison gas attack, and giving a United States imprimatur to third country transfers of dangerous chemicals and defensive technology to rogue states.

Anybody who needs a road map or wants one for how this will work doesn't have to go to a lot of trouble. Just examine how Russia has taken advantage of similar provisions in the Nuclear Non-Proliferation Treaty. Russia is, at this very moment, using that treaty to justify its sale of nuclear reactors to Iran, under a provision known as "Atoms for Peace," if you can believe that. Under this CWC treaty's Articles X and XI—again, I have to

chuckle when I say it—dubbed "Poisons for Peace"—if Russia or China decide, for example, to build a chemical manufacturing facility in Iran, giving that terrorist regime the chemical agents and high technology it needs to modernize its chemical weapons program, Russia and China not only could argue that they are allowed to give Iran this technology, but that they are obliged to do so under a treaty, mind you, ratified by the Senate of the United States.

In short, ratifying the chemical weapons treaty sends a signal to the world that something has been done about the proliferation of chemical weapons when, in fact, we would not have done anything at all except make bad matters worse, because Articles X and XI of this treaty—this dangerous, dangerous treaty—assure that the Chemical Weapons Convention will increase the spread of chemical weapons rather than stop it.

So in this next to the last vote of the evening, Senators have a choice. In making that choice, I for one cannot imagine that the U.S. Senate would reject the advice of four former distinguished Secretaries of Defense, who testified that unless Articles X and XI are modified, the Senate should refuse to ratify this treaty.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. I note that the ranking member is not present on the floor at the moment, Mr. President. I will yield myself 10 minutes.

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

Mrs. FEINSTEIN. Mr. President, I want to express my strong support for the motion to strike condition 32 from the resolution of ratification.

I strongly support the Chemical Weapons Convention. I believe it is very much in our national interests to ratify this treaty.

The pending motion is to strike condition 32 from resolution of ratification of the CWC. It is essential that this motion pass, because if it does not, our decision to ratify the treaty will be meaningless.

During the debate over this treaty, a number of serious concerns have been raised over Articles X and XI. I myself have shared some of these concerns. But I want to address these criticisms of the CWC now, because I believe that very solid answers have been provided to virtually all of them.

I met at the White House last Friday with National Security Adviser Sandy Berger and Special Assistant to the President for Defense Policy and Arms Control Robert Bell, who explained these answers to me in detail, and I found their explanations persuasive.

Sharing Defense Technologies: During the April 9, 1997 hearing in the Senate Foreign Relations Committee, the concern was raised by several witnesses that Article X of the CWC would require the United States to share advanced chemical defense technologies with rogue nations like Iran, who may sign and ratify the treaty.

If indeed the treaty required that, there would be significant grounds for concern. But I believe the concern is unwarranted and unfounded.

In an April 22 letter to me, National Security Adviser Sandy Berger makes it very clear that Article X of the CWC would impose no obligation on the United States to assist Iran with its chemical weapons defense capabilities.

I ask unanimous consent that Mr. Berger's letter be included in the RECORD at the conclusion of my remarks.

Mr. Berger makes clear that paragraph 7 of Article X, which spells out the obligations of States Parties to assist others threatened by chemical weapons, would require the United States to provide nothing more than medical antidotes and treatments to any state we deemed unreliable. We have the option to provide more advanced assistance to those nations we trust, but no obligation.

The Administration is so comfortable with this reading of the treaty, that, in their negotiations with Senator HELMS and with the Majority Leader's task force on the CWC, they have agreed to a binding condition (number 15) that would ensure that the United States will not provide any assistance other than medical assistance to any rogue nation that becomes a party to the treaty.

Another concern about Article X is that paragraph 3, which calls for parties to "facilitate * * * the fullest possible exchange" of information and technology on protection against chemical weapons, which some here have said would require the United States to share such equipment with rogue nations who sign and ratify the treaty.

The Administration has made clear that the use of the words "facilitate" and "possible" in this paragraph mean that the United States will determine whether any specific exchange is appropriate, and we will not pursue those we deem inappropriate. In making these decisions, we will do nothing to undermine our national export controls.

With these assertions in hand, I am satisfied that the United States will in no way be obligated to provide chemical weapons technology to any nation we deem to be untrustworthy.

Some have also raised the concern that Article X might induce other, less conscientious nations, to supply rogue states with defense technologies. But there is nothing that prevents those sales from taking place today, with no CWC in effect.

Within the CWC, the countries who make exchanges allowed in Article X are legally bound by the treaty's overriding principle, stated in Article I, that they can do nothing to "assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention." Any country's failure to uphold this obligation would enable the full force of over 160 nations to coalesce in support of sanctions, and possibly military action.

In addition, the CWC would provide us with far more ability to scrutinize any exchanges of chemical defense equipment than we have today. The result is a net increase, not decrease, in our knowledge of defense exchanges with rogue nations, and our ability to address any compliance concerns that may arise from these exchanges.

Cooperation on Chemical Technology: Another concern that has been raised involves Article XI. Some have suggested that Article XI, which deals with cooperation in chemical activities not prohibited by the treaty, would require the United States to provide other nations with access to our dual-use technologies and manufacturing secrets. Here again, the concern is unwarranted.

Article XI does aim to ensure that parties to the treaty can conduct legitimate chemical commerce, which is reasonable. But in his April 22 letter, Mr. Berger explains that this Article does not require the United States, or any U.S. company, to provide confidential business information to any foreign party.

As to the concern that Article XI will undercut export controls, indeed, the reverse is true. Mr. Berger makes clear that all U.S. export controls now in effect are fully consistent with the CWC. In addition, our allies in the Australia Group, all 28 of them, have pledged to maintain all existing multilateral export controls, which they agree are fully consistent with the CWC.

Here again, the problem identified by critics of the CWC would actually be worse without the treaty. The CWC will allow us to better monitor chemical commerce that occurs today without our knowledge. It will also provide the basis for further multilateral efforts to control exports, above and beyond our own existing export controls and those of the Australia Group.

Furthermore, with the CWC, the countries undertaking exchanges are legally bound by the fundamental obligations in Article I—the overriding Article of the treaty—never "to assist, encourage or induce in any way anyone to engage in any activity prohibited" under the convention. It must be remembered that Article I supersedes all subsequent articles of the Convention. It is disingenuous to suggest that the treaty would undercut its central prohibition so blatantly.

To address the concerns raised about Article XI, the Administration has

agreed to a binding condition (number 7) that the President must certify now and on an annual basis that the Australia Group of 30 nations is continuing to control chemical exports effectively and remains a viable mechanism for doing so.

According to this condition, the President must also certify that nothing in the CWC obligates the United States to weaken our own export controls, and that each member of the Australia Group remains committed to maintaining current export controls.

With this condition added to the resolution of ratification, I believe concerns about Article XI can be laid aside.

In fact, the negotiations between the Administration and Sen. BIDEN on the one hand, and Sen. HELMS and Sen. LOTT's task force on the other, have been remarkably successful in addressing the concerns that have been raised about the treaty.

If the Administration is willing to meet the concerns of the critics of Articles X and XI, as it has, and those critics still insist on the removal of those articles as their price for ratifying the treaty, it is clear that the intent is to kill the treaty altogether.

It is completely unrealistic to suggest that we try to drop Article X and amend Article XI of the CWC at this point. These two articles were included to reassure countries who signed the treaty that they would not be prevented from developing chemical weapons defenses or engaging in legitimate chemical commerce.

None of the 160 nations who have signed or 74 nations that have ratified the treaty will agree to renegotiate these provisions at the eleventh hour. It will simply result in our exclusion from the CWC—which is clearly the intent.

As Gen. Brent Scowcroft, National Security Adviser to President Bush, testified before the Foreign Relations Committee on April 9, 1997:

> Starting over * * * is pure fantasy. If we reject this treaty, we will incur the bitterness of all our friends and allies who followed us for 10 years in putting this thing together * * *. The idea that we can lead out again down a different path I think is just not in the cards. We have got to deal with the situation we face now, not an ideal one out in the future.

The concerns raised about Articles X and XI—which I shared—have been more than adequately addressed by the agreed conditions.

Failing to strike this condition would be tantamount to killing the treaty. I urge my colleagues to vote for this motion to strike. Those who do not are essentially voting against ratification of the entire CWC.

The CWC is not a panacea, and none of its proponents believes it is. It will not by itself banish chemical weapons from the earth, but it would result in the destruction of much of the world's chemical weapons stocks, and provide us with a valuable set of tools that would significantly strengthen our ability to monitor and defend against the threat of chemical weapons.

So, reiterating, Mr. President, during the April 9 hearing in the Senate Foreign Relations Committee, the concern was raised by several witnesses that Article X would require the United States to share advanced chemical defense technologies with rogue nations like Iran, who may sign and ratify the treaty. If indeed the treaty required that, there would be significant grounds for concern. But I believe the concern is unwarranted.

In an April 22 letter to me, National Security Adviser Sandy Berger makes it very clear that Article X of the CWC would impose no obligation on the United States to assist Iran with its chemical weapons defense capabilities.

Mr. Berger makes clear that paragraph 7 of Article X, which spells out the obligations of States Parties to assist others threatened by chemical weapons would require the United States to provide nothing more than medical antidotes and treatments to any state we deem unreliable. We have the option to provide more advanced assistance to those states we trust, but no obligation.

Another concern about Article X is that paragraph 3, which calls for parties to * * * "facilitate * * * the fullest possible exchange" of information and technology on protection against chemical weapons.

Now, I understand the concern there. But the administration has made it clear that the use of the words "facilitate" and "possible" in this paragraph mean that the United States will determine whether any specific exchange is appropriate, and we will not pursue those we deem inappropriate. In making these decisions we will do nothing to undermine our national export controls.

With these assertions in hand, I am satisfied that the United States will in no way be obligated to provide chemical weapons defense technology to any nation we deem untrustworthy. And the President's point A in his letter to the majority leader points this out as one of the three conditions under which the United States would withdraw from the treaty if it turns out any other way.

Some have also raised the concern that Article X might induce other, less conscientious, nations to supply rogue states with defense technologies. But there is nothing that prevents these sales from taking place today, with no CWC in effect.

With the CWC, the countries who make exchanges allowed in Article X are legally bound, as Senator MCCAIN pointed out, to the treaty's overriding and superseding principle, stated in Article I, that they can do nothing to "assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention." Any country's failure to uphold this obligation would enable the full force of 160 nations to coalesce in support of sanctions, and possibly military action.

In addition, the CWC would provide us with far more ability to scrutinize any exchanges of chemical defense equipment than we have today. So the result is a net increase, not a decrease, in our knowledge of defense exchanges with rogue nations and our ability to address any compliance concerns that may arise from these exchanges. For me, it was very helpful to be present in the closed session of this Senate. I very much appreciate the information shared. But I think the bottom line is really this point.

Let me turn to article XI, which deals with cooperation in chemical technology.

Another concern that has been raised involves the article XI provisions on cooperation in chemical activity not prohibited by the treaty. Some fear that these provisions would require the United States to provide other nations with access to our dual-use technologies and manufacturing secrets. Here again, I truly believe the concern is unwarranted. Article XI aims to ensure that parties to the treaty can conduct legitimate chemical commerce. It is reasonable.

In his April 22 letter to me, Mr. Berger explains that this article does not require the United States nor any U.S. company to provide confidential business information to any foreign party. As to the concern that article XI will undercut export controls, indeed, the reverse is true. Mr. Berger makes clear that all U.S. export controls now in effect are fully consistent with the CWC.

In addition, our allies in the Australia Group—all 29 of them—have pledged to maintain all existing multilateral export controls, which they agree are fully consistent with the CWC. Here again the problem identified by critics, I think, would be worse without the treaty. The CWC allows us to better monitor chemical commerce that occurs today without our knowledge. It will also provide the basis for further multilateral efforts to control exports, above and beyond our own existing export controls and those of the Australia Group. And, once again, Article I supersedes this article with the overriding obligation never "to assist, encourage or induce in any way anyone to engage in any activity prohibited" under the convention.

To address the concerns raised about article XI, the administration has agreed to a binding condition No. 7 that the President must certify now and on an annual basis that the Australia Group of nations is continuing to

control chemical exports effectively and remains a viable mechanism for doing so. The President must also certify that nothing in the CWC obligates the United States to weaken its own export controls. The President, in his point B on page 2 in his letter to the majority leader, clearly points out that, if that happens, we would withdraw from the treaty.

The negotiations between the administration and Senator BIDEN on the one hand, and Senator HELMS and Senator LOTT's task force on the other, I think have been remarkably successful in addressing concerns raised by the treaty.

So we see here that the administration has been willing to meet the concerns of critics of articles X and XI, and it has. It seems to me completely unrealistic to suggest that we try to drop articles X and XI at this late stage. These two articles were included to reassure countries who sign the treaty that they would not be prevented from developing chemical weapons defenses or engaging in legitimate chemical commerce.

None of the 160 nations who have signed, nor the 74 nations who have ratified this treaty will agree to renegotiate these provisions at the eleventh hour. It will simply result in our exclusion from the CWC. And that would truly be too high a price to pay. I urge all my colleagues to support this motion to strike condition 32 from the resolution of ratification.

I thank the Chair. I yield the floor.

Mr. HELMS. Mr. President, I yield as much time as I may have to Senator KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, first of all, let me say that I do not like to disagree with my friend and colleague from California, Senator FEINSTEIN. And I find that I rarely disagree with my colleague from Arizona, Senator MCCAIN. This is a treaty which has caused division among reasonable people. I respect their views immensely. We find that even former members of the same administration, the Bush and Reagan administrations, now find themselves on opposite sides of this issue. So it is a matter upon which reasonable people can differ. As I said, I respect the views of those who have disagreed with me, and they have certainly shown a respect for my views, which I appreciate.

These two articles are among the most important in the treaty, and I think a little bit of background is important for us to understand the reason we believe that it is important that they not be included in the treaty when we enter into force.

We have said initially that this treaty is not global. It doesn't cover countries that it should. It is not verifiable. It is fairly well acknowledged there are no sanctions. But supporters have said it is better than nothing. There are some advantages to it. Our response is that in some respects it is not better than nothing.

In particular, these two sections, articles X and XI, make it worse than nothing, and we ought to get rid of them. It is true that to get rid of them, the states parties to the convention have to agree. That will take some time. But we believe it is better, before the United States enters, when we have the leverage to cause that renegotiation to occur, to have it occur at that time. Therefore, the resolution of ratification is passed, but prior to the President actually depositing those articles, the President certify to us that articles X and XI have been removed, or fixed.

Why is this so important? Secretary of Defense Cheney was quoted by the distinguished chairman of the committee, and I think he succinctly said it. Therefore, I will summarize these thoughts by quoting Secretary Cheney in his letter of April of this year.

He said:

> Indeed, some aspects of the present Convention—notably, its obligation to share with potential adversaries like Iran chemical manufacturing technology that can be used for military purposes and chemical defensive equipment—threaten to make this accord worse than having no treaty at all. In my judgment, the treaty's Articles X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the globe.

Mr. President, I ask unanimous consent that Secretary Cheney's letter be printed in the RECORD.

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

DALLAS, TX, *April 7, 1997.*

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter inviting me to join several other former Secretaries of Defense in testifying in early April when the Foreign Relations Committee holds hearings on the Chemical Weapons Convention. Regrettably, other commitments will preclude me from participation. I hope that this correspondence will be sufficient to convey my views on this Convention.

During the years I served as Secretary of Defense, I was deeply concerned about the inherent unverifiability, lack of global coverage, and unenforceability of a convention that sought to ban production and stockpiling of chemical weapons. My misgivings on these scores have only intensified during the four years since I left the Pentagon.

The technology to manufacture chemical weapons is simply too ubiquitous, covert chemical warfare programs too easily concealed, and the international community's record of responding effectively to violations of arms control treaties too unsatisfactory to permit confidence that such a regime would actually reduce the chemical threat.

Indeed, some aspects of the present Convention—notably, its obligation to share with potential adversaries like Iran chemical manufacturing technology that can be used for military purposes and chemical defensive equipment—threaten to make this accord worse than having no treaty at all. In my judgment, the treaty's Articles X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the globe.

Those nations most likely to comply with the Chemical Weapons Convention are not likely to ever constitute a military threat to the United States. The governments we should be concerned about are likely to cheat on the CWC, even if they do participate.

In effect, the Senate is being asked to ratify the CWC even though it is likely to be ineffective, unverifiable and unenforceable. Having ratified the Convention, we will then be told we have "dealt with the problem of chemical weapons" when in fact we have not. But, ratification of the CWC will lead to a sense of complacency, totally unjustified given the flaws in the convention.

I would urge the Senate to reject the Chemical Weapons Convention.

Sincerely,

DICK CHENEY.

Mr. KYL. Mr. President, what is it about articles X and XI that cause Secretary Cheney and so many others to conclude that they should be removed? I will quote to you the language of both. They are on the chart behind me.

Article X provides that "* * * each state party undertake to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material, and scientific and technological information concerning means of protection against chemical weapons."

In other words, in plain English, those parties which have defensive capability will undertake to facilitate the fullest possible exchange of that technology, equipment, and so on, to the countries that don't have them. They shall have the right to participate in the fullest possible exchange of that equipment.

Article XI is the article that says that the states parties shall: "(b) undertake to facilitate, and have the right to participate in, the fullest possible exchange of chemical equipment, and scientific and technical information relating to the development and application of chemistry for purposes not prohibited under the convention."

That is to say, peaceful purposes. And, second, that the state parties "shall not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial and agricultural research, medical, pharmaceutical, and other peaceful purposes."

These two provisions were inserted in the treaty essentially as inducements to get the parties to join the treaty, in effect, saying, "If you will join the CWC, those of us who have this technology and these chemicals will provide them to you. We will sell you the

chemicals for peaceful purposes—not for chemical weapons. And we will provide you the defense technology so that you can defend against any possible use against you." Of course, the price for having that right is not developing chemical weapons.

In this respect, the treaty was compared to the Nuclear Non-Proliferation Treaty, and the so-called "Atoms for Peace," which said that if the countries would forswear the development of nuclear weapons building that the developed countries of the world would provide them peaceful nuclear technology. For some countries this worked. But sadly we know that a couple of other countries used the peaceful technology to build their nuclear weapon capability.

So, Secretary Cheney, and many others, fear that these sections, these articles, would permit countries—since they have been induced to come into the treaty with these commitments—to then call upon those commitments from the countries that have this equipment.

Is this an unreasonable assumption? Today, we are basically hearing statements that suggest that that is not the way it was intended at all.

That is a very recent phenomenon. As a matter of fact, right after the CWC was signed, it was very clear to all states parties that they begin to dismantle the trade restrictions they had in place on chemicals in order to come into compliance with the CWC.

According to the administration in testimony before the Senate, and I am quoting now, "Australia Group members"—these are the countries that have agreed not to sell chemicals to terrorist states—"in August 1992 committed to review their export control measures with a view of removing them for CWC states parties in full compliance with their obligations under the convention."

They knew that those trade restrictions were incompatible with the new commitments they had undertaken in articles X and XI of the convention, and the Australia Group itself issued a formal statement which concluded again that states parties were reviewing this, and I am quoting, "with the aim of removing such measures for the benefit of states parties to the convention acting in full compliance with the obligations under the convention."

The point being that when the treaty went into effect the parties knew full well that trade restrictions they had were no longer compatible with the convention, with articles X and XI, and that they were going to have to review limiting those trade restrictions, and the Australia Group is a very successful group of countries that has trade restrictions against trade in chemicals to these terrorist states.

Well, we then began raising the questions about articles X and XI. The administration position changed 180 degrees, Mr. President. The administration began to say, well, actually, we could continue our restrictions under these two articles. And we said, well, it will not do any good unless everybody else does it. They said, we could even persuade the Australia Group countries to do that. In other words, to do exactly the opposite of what they had originally decided they had to do to be in compliance.

So the administration has made much of and my colleagues have spoken of the fact that the United States will now interpret the Chemical Weapons Convention as not requiring us to provide this equipment and as enabling us to maintain trade restrictions even despite articles X and XI. Moreover, that we have even tried to get our fellow Australia Group countries to maintain their restrictions in place.

That is laudable. We have at least pushed the rock that far up the mountain. We have got them to agree these two sections should not operate the way they plainly say they will. I think it is a little unseemly to be signaling before we have entered the convention that we are going to violate it up front and convince many of our friends to violate it, because, frankly, it is the right thing to do because articles X and XI ought to be violated by us. They have no place in this treaty.

The problem is the administration has also glossed over the fact that while we may interpret the treaty this way, there are others who do not. For example, China does not. Iran does not. And there are other countries that we heard about in our classified session this morning that do not. They explicitly understand that the treaty means what it says. And therefore two parties that have signed, not yet ratified but signed the agreement have indicated that they intend to continue their trade. And this is China selling chemicals to Iran, for Iran's chemical weapons program. That is the problem. And it is true that nothing prevents that trade from occurring today, Mr. President, but the problem is that the Chemical Weapons Convention gives them the color of law, the legal authority to be able to say: Look, we are parties to the treaty. The treaty says we can do it, so stop complaining and, by the way, don't impose any restrictions on us because of what we are doing.

I do not know how long it will be before chemical companies in other countries are going to say wait a minute, why should the Chinese have all the action here; we would like to have a piece of that action, too, and therefore when one country breaks an embargo it begins to fall apart. That is why I submit that just focusing on United States action under the treaty is not going to solve the problem.

There is also the idea—and this is really not a proper legal argument, but some have said that article I supersedes the specific articles of the convention. Now, for those who are lawyers, they recognize this is not true. The specific always governs over the general. Article I is a general prohibition. The very specific articles such as articles X and XI will control. They are the specific implementation of the treaty.

But to conclude now, Mr. President, the President of the United States has said given the fact that there are concerns, continuing concerns about articles X and XI, I am going to write a letter which maybe will put your mind at ease, and that letter has been referred to here by some of my colleagues. I do not doubt the sincerity of the President in sending the letter and certainly do not doubt the sincerity of my colleagues in believing that letter provides some solace, but I would like to make five points with respect to that letter.

If the things under articles X and XI happen that we think will, it does not solve anything for the United States to pull out of the treaty as the President says he might do. The time to exercise leverage is now before we are a party to the treaty. And what we are saying is prior to the United States getting into the treaty, we should make sure that articles X and XI are removed so that these bad things do not happen. Once they happen, there is no point of the United States pulling out of the treaty. That does not solve anything. So what the President says he is willing to do, frankly, is not an inducement.

Moreover, there is the argument that it is better to be inside the treaty than outside the treaty. And believe me, once we are inside it is going to be much harder to leave than it is to get in in the first place.

Third, certifications of the kind that the President indicated he would be willing to make are very, very hard to do. There are a whole series of certifications that have to be made under U.S. law. They are too hard. We end up not doing them. The certification of Mexico is a good example, to certify that they are cooperating with us in the war on drugs. Most people believe that that was not an honest certification. But the desire to cooperate with Mexico was so strong that it overrode the point of being honest in the certification. The same thing is true with the Arms Control Disarmament Act, the annual Pell report, section 51. We know that Russia is not in compliance with the Biological Weapons Convention or with the Wyoming Memorandum of Understanding or with the Bilateral Destruction Agreement, but the most this administration has ever done is to conduct high-level discussions with the Russians. It is too hard to certify that they are in noncompliance and therefore take the action that is required.

The same thing is true under the Export-Import Ban Act with respect to violations by China and several other laws that China has violated with respect to its chemical weapons transfers to Iran. These certifications are simply too hard. And while I agree, I am sure the intentions of the President are appropriate in this regard, those certifications I submit are not going to be done.

The time line here is important, too. This is a commitment by President Clinton. It is between 2 and 3 years before any action can be taken under this convention. That means that this President's term will almost be expired before he would have the opportunity to even consider the issues that are set forth in his letter. So it is not an effective commitment.

And finally, Mr. President, the letter only deals with United States actions, the point that I made in the beginning. The question here is not United States actions. The question has always been what are we going to do with those countries of the world that seek an offensive chemical weapons capability, a capability that we would like to deny them, countries like Iran, the one I have been talking about here. This commitment, the President's commitment in his letter does absolutely nothing with respect to the sales of chemicals and chemical technology from a country like China to a country like Iran. It doesn't affect it at all.

So while it is a nice commitment to have made with respect to the United States participation and attempting to keep the Australia Group together, the fact is it does not deal with part of the problem that has concerned us from the very beginning.

I conclude with this letter to simply make this point. As I said, reasonable people can differ, and I respect the views of those who disagree with me. They have sincere belief that this treaty is better than nothing. And if they believe that way, they should vote yes on this treaty. There are also those of us who disagree with that proposition. But I urge my colleagues, if you believe that this letter provides the basis for support for the treaty, I honestly believe that is incorrect. If you are going to vote yes on this treaty, do it for grounds other than this letter because it does not provide a satisfactory response to the very real problem that has been discussed by Secretary Cheney, by Secretary Weinberger, by Secretary Rumsfeld, by Secretary Schlesinger, and a host of other people who have all said that the fundamental problem is articles X and XI. Unless they are removed, we are looking for more proliferation, not less, under this treaty. And it is for that reason the motion to strike should be defeated, Mr. President.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. From my general debate time I yield 10 minutes to the assistant majority leader.

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

Mr. NICKLES. Mr. President, first I would like to compliment my colleague from Arizona, Senator KYL, for an excellent statement. I happen to think that this amendment we are debating is the key amendment of the entire debate. I certainly compliment all Senators for their involvement in this debate. I think it has been one of the best debates we have had in the Senate for a long time. It is also one of the most important issues we have had where we have seen so many colleagues, particularly on this side of the aisle, who have been undecided and probably because of this language dealing with article X and article XI.

This is the language we have heard former Defense Secretary Cheney, former Secretary of Defense Schlesinger, and Cap Weinberger, really speak out against in their statements before the Senate Foreign Relations Committee.

Also, I note that President Clinton has a letter addressing this issue. But I looked at it a little bit more. I certainly concur with the goals and objectives; we want to reduce chemical weapons. And we have taken a laudatory step of saying we are going to ban them in this country and we want to encourage other countries to ban them, and I think that is great. And that is in article I. I see article I is over here, and if one reads article I it looks great. But I think it is incumbent upon us as Senators to read the balance of the treaty.

When you read article X, and it is in the treaty, it says:

> Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

Share defensive technology. I know the administration said, well, we are not going to do that. But it is in the treaty that we are going to. I find that a little contradictory, we are going to limit what we are going to share. This says to the fullest extent possible. The language is very contradictory in what the administration says they are going to do in subsequent letters and what the language of the treaty is. I think maybe the language of the treaty will supersede.

If we are signing a treaty, don't we mean to comply with all of it. And then again we are not just talking about the United States, because I hope that we don't just give our technology away to some countries, some countries that will sign this convention and will not comply. We know that. We have had some experience. We have seen it not only with the Geneva Protocol on chemical weapons, but we also have seen it with the biological weapons convention which a lot of countries signed but they have not complied with and we know that. Our intelligence community has done a pretty good job, and in many cases we know a lot of countries are not complying.

But I think it is legitimate to ask, are we better off with it or without. And I have heard good debate on both sides. But this language says to me we have to share this technology. Not only do we have to but also other countries, including countries like China, would be sharing this technology with Iran. Under the treaty, they would be obliged to, or certainly that is what they will be saying. Does that increase the likelihood and the dangers of chemical weapons? I am afraid it does.

And then looking at article XI, and again just looking at the treaty and looking at the language of the treaty—every once in a while I think it is important we do it—under article XI, section 2(c) it says:

> Not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes.

In other words, we want a lot more trade in other chemicals that aren't banned by this treaty.

There is an editorial in the Wall Street Journal that I ask unanimous consent to have printed in the RECORD.

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

[From the Wall Street Journal, Apr. 24, 1997]

CHEMICAL REACTIONS

Before today's vote on the Chemical Weapons Convention, we hope that some Senator will twist his tongue around the 20 chemicals listed here and read their names into the record. This list makes two important points about what's wrong with the treaty.

First is that many ordinary chemicals can be put to deadly use. The chemicals on this list can be used in such mundane products as laundry soaps, ink and fumigation agents—or they can be used in lethal weapons. Bear this in mind when you hear the President assert that the CWC will "banish poison gas from the Earth."

The second point is that the CWC not only will permit trade in these 20 potentially deadly chemicals, it will *require* it. American companies currently are restricted from exporting these dual-use chemicals under the terms of an organization called the Australia Group, which is made up of 29 Western countries committed to ensuring that their exports don't contribute to the spread of chemical weapons.

But Articles X and XI of the CWC require member countries to transfer chemicals and technology to any other member country that asks. This goes a long way toward explaining why the Chemical Manufacturers

Association is so loud in its support of the treaty.

Senators who are still considering how to vote might consider whether selling such chemicals to China or Iran or Cuba will help make the world safe from chemical weapons—or make the world a more dangerous place.

MUSTARD GAS FOR SALE

Trade in these 20 precursors for chemical weapons agents, now regulated, would be permitted under the Chemical Weapons Convention:

3-Hydroxy-1-methylpiperidine
Potassium fluoride
2-Chloroethanol
Dimethylamine (DMA)
Dimethylamine hydrochloride
Hydrogen fluoride
Methyl benzilate
3-Quinuclidone
Pinacolone
Potassium cyanide
Potassium bifluoride
Ammonium bifluoride
Sodium fluoride
Sodium bifluoride
Sodium cyanide
Phosphorus pentasulfide
Diisopropylamine (DIPA)
Diethylaminoethanol (DEAE)
Sodium sulfide
Triethanolamine hydrochloride

Source: Senate Foreign Relations Committee

Mr. NICKLES. This article lists about 20 chemicals that are not prohibited by this treaty, that basically this section of article XI says you will be able to sell those chemicals. As a matter of fact, no restriction. This language says that countries cannot maintain amongst themselves any restrictions including those in any international agreements. It does not say some. It says any international agreements. That sounds pretty open. A lot of those chemicals can be used to develop chemical weapons. They can also have a dual purpose. It can be kind of confusing.

I understand the President in his letter today said, well, he would try to end the confusion. And so I looked at his letter, and in his letter on page 2 he says—dealing with article X, he said:

> Using article X to justify providing defensive chemical weapon equipment, material or information to another State Party that could result in U.S. chemical protective equipment being compromised so that U.S. war fighting capabilities in a chemical weapons environment are significantly degraded.

If that is the case, he wants out. What is "significantly degraded"? How do you reach that level. I do not know that you would ever reach—since he has "significantly degraded," I do not know, because the word "significantly" is there that it would ever be treated. And then in (b) he talks about where it would be impossible for him to make a certification on the Australia Group. But in the final language he says we would get out if the implementing of this convention carries out transfers or exchanges under either article X or XI which jeopardize U.S. national security by promoting chemical weapons proliferation. When is that going to be triggered?

His final conclusion is kind of interesting. I read the AP story that said, well, because of the President's letter, he said if these things happen, we are out of there, we are going to walk away from the treaty. I do not read that in his language. It says I would be prepared to withdraw. It did not say he would withdraw. So if it really jeopardizes our national security, he might be prepared, but it did not say he would withdraw, after consulting with Congress.

In other words, I do not find a lot in this letter that gives me any real comfort or assurance that article X or XI has really been addressed. And I appreciate the fact that a lot of our colleagues have addressed this issue, but to me treaties are important. And we have had a lot of significant discussion over various sections of the treaty, maybe none more than article X and XI, but it happens to still be in the treaty. And the President's letter notwithstanding, at the conclusion of his letter he said if all these things happen or any of these things happen, I would be prepared to withdraw.

Frankly, Senator KYL is right. That is not going to happen in 2 or 3 years. It is not going to happen under President Clinton's term. I do not know that this letter would be binding on succeeding or successors of the President.

So, Mr. President, this language is vitally important. I would tell my colleague from North Carolina my vote on final passage depends on this amendment. If we are able to make this change by the Senator from North Carolina, I will vote maybe for final passage. I think this is a killer amendment, having it in the treaty. I think it is that important. We are ratifying the entire treaty including article X, including article XI. And again I compliment my colleagues. I have the greatest respect for Senator LUGAR. I know he has worked hard on this. I have the greatest respect for Senator MCCAIN and a lot of other people on both sides of the aisle. They have conducted an excellent debate. I have made a long list of pluses and minuses on this treaty. I could debate either side of the treaty, I have spent just that amount of time on it. But I happen to think that this article X and article XI do a lot of damage. Since we are ratifying not just article I, but the entire treaty, I urge my colleagues to vote to delete the section. I urge my colleagues to vote no on this. I think this is the most important amendment and discussion that we will have to date.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. They have not.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, how much time remains under the control of the Senator from Delaware?

The PRESIDING OFFICER. Eleven minutes.

Mr. BIDEN. Mr. President, I suggest my colleague and I divide that time. I yield 5 minutes to my friend from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the condition we are discussing, all Senators by this time, I am certain, understand, requires the President to certify that the parties to the convention have agreed to strike article X of the convention and amend article XI of the convention. That means, in simple language, that the United States would simply say a treaty negotiated by 160 countries, now ratified by, apparently, 74—unilaterally, we simply knock out article X and severely amend article XI.

As all Senators who have addressed this will admit, this means effectively the end of the treaty, at least in terms of our participation, because, clearly, the other nations of the world are under no obligation to renegotiate the entire treaty at that point. This is the reason it is strictly a killer amendment. It simply knocks out material parts of the convention.

If those who are advocating this had a point, there might be reason to pause at this point and not ratify the treaty. But by and large it appears to me that most of us want to ratify the treaty and we do so with assurance, first of all, that as a country we have our wits about us. There is no possibility this President, the next President, Members of the Senate, any responsible American is going to furnish material to countries that are rogue states that are going to jeopardize our security. The treaty does not call for that, as again and again we pointed out. This was a generous interpretation that the Iranians gave because, at least from that standpoint, they would like to have the material. But why we should ever be that gullible escapes me. There is no mandate to give anything away.

Those of us who advocate the treaty have been saying we will not. The President of the United States has been asked for assurance, and he said that he will not. He has sent letters to the majority leader and to individual Senators affirming this in any number of ways.

Furthermore, the question arises, "Fair enough, Mr. President, or Mr. Senator, if you will not give things

away to the Iranians, how about the French or the Germans or some other nation? Perhaps they will do so." As Secretary Cohen replied on Meet The Press on Sunday—and Secretary Albright, likewise, who was sitting beside him responded to this question—they pointed out that is a very good reason for us to be around the table with the other countries from the beginning, setting the rules.

If Senators are seriously concerned that other countries are going to give away the store, we had better be there to help restrain them, to offer our leadership. It comes back to that, our leadership. We were the ones that started the whole process—President Reagan, President Bush, President Clinton. We are the ones who had a good idea: If we were getting rid of our chemical weapons, others ought to get rid of theirs.

This is our treaty, as Secretary Albright said, "Made in the USA." And we ought to be there to set the rules, to be the governing board, to assert our leadership at the moment that it is crucial after April 29.

So I say simply to those who have qualms about articles X and XI, we are not going to give away the store, any of us, as patriotic Americans. We would like to be at the table to make sure no one else entertains that thought. But I say again, whether we are there or not, the treaty is going to happen after April 29. We better be there and, hopefully, with affirmative votes to strike this fifth situation we have discussed this evening, this fifth condition, and for final passage, to vote for the treaty. These are very important for the foreign policy and security of our country.

The PRESIDING OFFICER. The Senator from Delaware.

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

The PRESIDING OFFICER. Six minutes 11 seconds.

Mr. BIDEN. Mr. President, I yield myself 5 minutes and I ask to be informed at the end of those 5 minutes. I am not going to take the time to speak to why this is a killer amendment and why this is so important, because I could not improve upon what the Senator from Indiana said. I mean that sincerely.

It is real basic. This gets down to real basic considerations. Anybody who has the capacity to transfer technology can do that right now. They can do it right now. If they are in the treaty, the treaty does not require them to transfer that technology, but they, theoretically, could transfer technology. If we are not in the treaty we are not there to modulate their attitudes, their activities. We are out of the game.

This seems to me to be so simplistic and basic. But let me put on the hat I have been wearing for the past 5 years. I have been teaching constitutional law at Widner University on Saturday mornings, a three-credit course. You know the old joke is, if you want to learn a subject, teach it. If I had spent nearly as much time studying it when I was in law school, as much time as I have spent teaching it, I would have ended up in the top of the class, not the bottom. I don't think I would have the record the Senator from Indiana had, but it would be better.

But all kidding aside, there is something, to quote Elliot Richardson, our former Attorney General, and Abe Chayes, Harvard Law School professor, and a number of other professors, which I will submit for the RECORD, there is, as the letter to me says, regarding article X and article XI, it says:

> As it is axiomatic that all treaty provisions must be interpreted in view of the purposes and objectives of the treaty and that a subsidiary obligation should never be read out of context to authorize behavior that would contravene a primary obligation, nothing in article X or XI may undermine article I. . . .

But the first part of that sentence—maybe I spent too much time in law schools. There is no legal scholar in America who will tell you that you can read a subsidiary provision in a treaty, a document, a contract or anything else, that contravenes the stated purpose of the treaty—the stated purpose of the contract. You cannot do that.

Think about it. Forget being a lawyer, just think about it. How could you write a contract, make a deal that said, "This is our purpose," and five paragraphs later say, "but if you don't want to meet the purpose, you don't have to." It is bizarre. This is an absolute bizarre interpretation.

Let me also point out—I wish my friend had not taken down their chart. The Senator's chart, those in opposition to my amendment, a chart on article XI, is somewhat incomplete. The paragraph that sat up there for a half-hour or so, paragraph 2 in the chart, read, "The state party shall—" and then it goes on, and then the subparagraphs (b) and (c) were shown. But they left out the remaining part of that. The words that were missing are very key. They read as follows:

> Subject to the provisions of the convention and without prejudice to the principles and applicable rules of international law, the state party shall . . .

That is the part they left out of article X and XI. What does article X and XI refer to? They are referring to article I.

I do not want to be overly technical here. This is not rocket science. What does article I of the treaty say? It says:

> Each State party to this convention undertakes never under any circumstances:
> (a) to develop or produce or otherwise acquire, stockpile or retain chemical weapons or transfer, directly or indirectly, chemical weapons to anyone;
> (b) to use chemical weapons;
> (c) to engage in any military preparation to use chemical weapons;
> (d) to assist, encourage or induce in any way anyone to engage in any activity prohibited to a state party under this convention.

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

Mr. BIDEN. I yield myself 2 additional minutes under the bill.

Mr. President, what are we talking about here? Do you know what this debate on article X and article XI reminds me of, speaking of law school? The only thing I ever did do well in law school was moot court. I won that. Does that surprise you all? But I did.

It reminds me of what we used to do—maybe when my friend from Indiana was at Oxford. You would walk in and you would be presented a question. The question before the court or the question before the House is—and you got assigned a side and you came up with the best arguments.

This reminds me of that, as if we all got together earlier today and said, OK, one side has to argue that article X and article XI do all these terrible things. I am glad I did not get that side to argue. The reason is, it is much harder to make the case. My friend from Arizona, who is an able trial lawyer, is doing a very good job. But, look, you cannot avoid the central purpose of the treaty and that is: Never, under any circumstances, can any party assist, encourage, induce in any way anyone to engage in any prohibited activity.

I yield myself 2 more minutes on the bill.

So we are in a position here where I really understand the worry. But, even if there was any merit to the reading that is given by my friends, we have, in the conditions that we did support, we have two conditions which cover this—double cover it. We promise we are not going to transfer anything that is not medical in nature.

Mr. President, a party cannot do something in the treaty by transferring material which would have the effect these Senators are worried about, because if it had the effect they were worrying about, then it would be assisting, encouraging, inducing or in some way engaging in activity prohibited by the treaty. Chemical weapons are prohibited by the treaty.

To reiterate, Mr. President, this is a killer, pure and simple. This will prevent the United States from joining the Chemical Weapons Convention.

The condition requires the President to certify that he has achieved the impossible: that he has been able to substantially rewrite the treaty.

There is no chance—none—that he can achieve this by April 29, and it is highly unlikely that he can ever do so—because amendments may be blocked by any State party to the convention. If a party wants to keep us out—and thus render the treaty ineffective—it can easily do so.

Aside from the practical difficulties of rewriting a treaty that took nearly a decade to negotiate, there is no need to do so.

Let me start with article 10. The Senator from North Carolina wants to get rid of it completely.

Article 10 contains two paragraphs at issue. Paragraph three provides that:

[E]ach State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

Note that this paragraph contains ambiguous terms like "facilitate" and "possible." There's a reason for that—the negotiators did not want us to make a concrete commitment.

And the Administration has made clear that it interprets this paragraph to mean that it will have the flexibility to decide what exchanges, if any, will occur under this paragraph.

On April 15, Sandy Berger wrote to me to say that:

. . . any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention and consistent with our national export controls on these heavily regulated items.

I ask unanimous consent that this letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, April 15, 1997.

Hon. JOSEPH R. BIDEN, Jr.,
Washington, DC.

DEAR JOE: During the Senate Foreign Relations Committee's hearings last week, concerns were again raised about the impact of the Chemical Weapons Convention (CWC) on the ability of rogue states to acquire advanced chemical defense or chemical manufacturing technology. I would like to take the opportunity to elaborate further on these issues and set the record straight.

First and foremost, I would like to take issue with the charge that the Nuclear Non-Proliferation Treaty (NPT) and the Biological Weapons Convention (BWC), which have language similar to the CWC on promoting trade for peaceful purposes, have hastened the spread of these dangerous weapons and technologies. In fact, export controls in these areas have been made tougher and these controls, as well as the treaties themselves, have gained the support of more and more countries over the years. In the early 1960s, President Kennedy predicted that there would be 15–20 nuclear weapon states by the 1970s. Due largely to the NPT, that number if far lower today. Controls on biological weapons continue to be strengthened, including in 1992, when the Australia Group decided to add biological pathogens and related equipment to their list of controlled items.

The CWC, like the NPT and the BWC, will result in a strengthened export control regime on dangerous chemicals. The CWC allows for maintenance and strengthening of the controls already in place, while also formally expanding controls over a broad range of chemicals and precursors. The CWC also prohibits novel agents which are not currently covered. The informal Australia Group consists of 30 countries, while the CWC has been ratified by 72 countries and the list is growing. Furthermore, the CWC provides for trade restrictions against states who are not party to the treaty.

Regarding the specific CWC Articles in question, one area of concern has been whether Article X of the CWC might force us to share advanced chemical defense technologies and equipment with rogue nations like Iran and to assist in the development of CW defensive capabilities. Let me assure you that Article X does not require the U.S. or any other Party to the treaty to share its advanced chemical weapons defense technologies and equipment with countries such as Iran or to assist them in the development of such capabilities.

Although Paragraph 7 of Article 10 obligates States Parties to provide assistance through the treaty organization in response to a request by a State Party that has either been threatened by the use of chemical weapons or has had chemical weapons used against it, assistance is broadly defined in the article as including medical antidotes and treatments. Article X provides complete flexibility to States Parties to determine what type of assistance they provide and how they provide it. A State Party's obligation under paragraph 7 of Article X may be met in one of three ways—by contributing monies to a voluntary fund (managed by the treaty organization); by concluding an agreement with the organization concerning the procurement, if requested, of specific types of assistance; or by declaring (within 180 days after the CWC's entry-into-force) the kind of assistance it might provide in response to an appeal by the organization.

To meet its obligations under Article X, therefore, the U.S. can choose from a variety of options and forms of assistance. In no case would we be required to share advanced chemical defense technology and equipment, or even to provide older model gas masks. During our extensive negotiations with Majority Leader Lott and the Task Force he established on the CWC, the Administration has agreed to a binding condition, regarding Article X, on the resolution of ratification that will ensure that no assistance other than medical antidotes and treatments is provided by the United States to any country of concern.

A particular concern has also been raised about Paragraph 3 of Article X. This paragraph states that "Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons." The inclusion of the words "facilitate" and "possible" underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention and consistent with our national export controls on these heavily regulated items. Paragraph 3 of Article X does not override any other rights and obligations under international law, such as the right to have export controls.

The concerns about Article X also include whether other less scrupulous countries might seek to use this article as an excuse to profiteer by giving away defense secrets. This concern misses the main point, which is that any such unscrupulous exchanges can take place now without the CWC. With the CWC, the countries undertaking any exchanges in Article X are legally bound by the fundamental obligation of the treaty in Article I, which obligates Parties never to ". . . assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention." The Chemical Weapons Convention will mean not only that all relevant trade is subject to closer scrutiny, especially with countries whose compliance may be in doubt, but it will also provide the legal basis as well as the verification and compliance measures to redress those compliance concerns.

In this regard, concern has been raised specifically that Paragraph 6 of Article X could provide the basis for other Parties to argue that they must share defensive technologies. Paragraph 6 states that "Nothing in this Convention shall be interpreted as impeding the right of States Parties to request and provide assistance bilaterally . . . concerning the emergency procurement of assistance." This paragraph does not require or obligate a Party to provide emergency bilateral assistance, but simply states that a party may choose to provide such emergency assistance. Again, I would underscore that with the CWC in force, any exchange of CW defense assistance takes place within the framework of the fundamental obligations of the treaty not to assist anyone in acquiring a chemical weapons capability.

A specific concern also has been raised that Paragraph 5 of Article X could be read to require the release of advanced and classified information about defensive capabilities and technologies. This is simply not the case. Paragraph 5 requires the international Technical Secretariat which will administer the Convention to establish and maintain "for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties." As stated in the Article-by-Article Analysis submitted to the Senate on November 23, 1993, "freely available" means "from open public sources." Further, the CWC imposes no obligation on States Parties to contribute to this database. Hence, the provision does not require the release of classified or otherwise sensitive information about U.S. chemical defense capabilities.

A second area of concern has been whether Article XI of the CWC, which relates to cooperation in the field of chemical activities for purposes not prohibited by the CWC, might force our industry to share dual-use technologies and manufacturing secrets with other nations. This is not what the treaty says. Let me assure you that Article XI does not require private businesses to release such proprietary or otherwise confidential business information, nor does it require the U.S. Government to force private businesses to undertake such actions.

Article XI is explicitly subject to the fundamental ban in Article I on assisting anyone in acquiring a chemical weapons capability. Here again, far from undercutting export controls, the CWC will be a basis for stronger controls, enforced by more countries. I want to make clear that the export controls that we and other Australia Group members have undertaken, as well as our own national export controls, are fully consistent with the CWC and will further its implementation. This is not just a U.S. Government position. In recent weeks, we have instructed our embassies to confirm with our Australia Group partners that they agree that the Group's export control and nonproliferation measures are fully compatible with the CWC. Our partners have confirmed this and have also confirmed that they are

committed to maintaining such export control and nonproliferation measures in the future.

In order to address the concerns raised about Article XI, the Administration has agreed to a binding condition in our negotiations with the Majority Leader's Task Force that would have the President certify prior to the deposit of our instrument of ratification that nothing in the Convention obligates us to accept any weakening of our export controls, that we maintain the right to impose export controls unilaterally or collectively on chemicals and chemical production technology, and that each member of the Australia Group agrees that its export controls and nonproliferation measures are consistent with the CWC and is committed to maintaining such controls in the future.

Furthermore, as prescribed in the condition, the President must certify on an annual basis that the Australia Group continues to maintain equivalent or more effective controls over exports and that it remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials. If this certification cannot be made, the President must consult with the Senate for the purpose of obtaining a resolution of continued adherence to the Convention.

I hope this information facilitates the Senate's consideration of the CWC. I look forward to continuing to work with you and other CWC supporters to ensure a successful vote on this vital treaty in the days ahead.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

Mr. BIDEN. Moreover, as with any treaty, this paragraph must be read in light of the object and purpose of the convention. The purpose of the treaty, quite obviously, is to ban chemical weapons.

And any nation which provides technology to a country of concern would find itself in violation of the overriding obligation of Article One of the treaty, which requires states "never under any circumstance * * * to assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a state party under this Convention."

This is an overriding obligation. It governs everything you do under the treaty.

Ronald Lehman, the head of the Arms Control and Disarmament Agency during the Reagan Administration, stated during a recent Foreign Relations Committee hearing that:

We made it very clear throughout the negotiations that all of this was subject to [A]rticle I, which is the fundamental obligation [under the Convention] not to assist. So we reiterated that again and again and again. But the most important, I think, telling factoid in support of the U.S. interpretation is the fact that after the Convention was done so many of the usual list of suspects were so unhappy that they did not get what they wanted in these provisions.

On this point, I would also like to refer to a letter submitted to me by a group of eminent legal scholars, including Abe Chayes of Harvard Law School, former State Department legal adviser, and Elliot Richardson, former Secretary of Defense and former Attorney General.

They write that the language in paragraph three which discusses that each State Party has the right to "participate in exchanges of equipment" is axiomatic—that is, it "merely reaffirms current trade policies that allow nations to exchange goods and services. Each State Party retains the right to participate in this trade at the level of its own choosing, including not to trade at all. There is no affirmative duty to trade * * *."

I ask unanimous consent to have the letter printed in the RECORD at this point.

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

APRIL *23, 1997.*

Hon. JOSEPH R. BIDEN, JR.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: You have asked us to state whether Articles X and XI of the Chemical Weapons Convention (CWC) require States Parties to "undertake to share everything that is hard to achieve in a chemical weapons capability" thereby enabling States Parties to develop a "militarily effective chemical weapons capability."

Before analyzing Articles X and XI, we note that the CWC primarily obligates all States Parties, as set forth in Article I, "never under any circumstances" to "assist, encourage or induce, in any way, anyone to engage in any activity" prohibited under the CWC. This includes the obligations not to develop, produce, stockpile, acquire or retain chemical weapons, and not to engage in any military preparations to use chemical weapons. As it is axiomatic that all treaty provisions must be interpreted in view of the purposes and objects of that treaty and that a subsidiary obligation should never be read out of context to authorize behavior that would contravene a primary obligation, nothing in Article X or XI may undermine Article I by assisting a country in developing a chemical weapons capability.

Article X is titled "Assistance and Protection Against Chemical Weapons." Paragraph (7) is the only provision in Article X which contains a specific obligation: each State Party must elect to take one or more of three specified measures of assistance. Under Agreed Condition 15 to the Resolution of Ratification of Advice and Consent, the United States, to meet its commitments, will only provide medical antidotes and treatment to states not eligible for assistance under the Foreign Assistance Act of 1961. Nothing in paragraph (7) can remotely be construed as requiring the United States to provide equipment or assistance that would enhance a rogue state's offensive or defensive chemical weapons capability; again, a proper reading of the treaty as a whole would prohibit the provision of assistance that would encourage such a result.

Paragraph 2 clarifies that the CWC does not restrict a State Party from researching chemical weapon protection capabilities for purposes not prohibited. Paragraph 6 clarifies that the CWC does not impede parties from providing assistance or entering into bilateral agreements concerning the emergency procurement of assistance. Neither of these paragraphs compels any conduct whatsoever but merely enables States Parties to pursue these activities without fear of being in breach.

Article X, paragraph 3, asserts that: "Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons. In our view, nothing in paragraph (3) requires the United States to provide any particular matter or information. Accordingly, this paragraph would require the United States to withhold, either unilaterally or as part of a multilateral group, materials or information that could enhance the chemical weapons capability of any particular state.

That each State Party has the right to participate in exchanges of equipment, etc. regarding chemical weapons protection merely reaffirms current trade policies that allow nations to exchange goods and services. Each State Party retains the right to participate in this trade to the level of its own choosing, including not to trade at all. There is no affirmative duty to trade, but only a reaffirmation that States Parties wishing to trade may do so without fear of contravening the CWC. Under recognized principles of treaty interpretation, the use of the intentionally vague and weak verb "undertakes to facilitate" conveys no specific affirmative obligation nor would the refusal to trade in sensitive items support even the most tenuous claim that the United States has breached its obligations.

Article XI is titled "Economic and Technological Development" and seeks to balance free trade in chemicals, equipment and technology with the prevention of proliferation of chemical weapons. It is modeled on Article X of the Biological Weapons Convention and is analogous to Article IV of the Nuclear Nonproliferation Treaty (NPT) dealing with peaceful uses of nuclear energy. Subparagraphs (b), (c), (d), and (e) of paragraph 2 address the right of each State Party to participate "in the fullest possible exchange" of information; generally prohibits restrictions on trade; and prohibits using the Convention as grounds for measures not provided under the CWC. Only paragraph (2)(e) contains an affirmative obligation: each State Party must review its existing national regulations to make them consistent with the CWC. The remainder of its provisions clarify that the CWC should not restrict commercial and research activity that would be otherwise permissible. Moreover, these provisions are explicitly balanced against general provisions, including: (1) "without prejudice to the principles and applicable rules of international law," (2) "for purposes not prohibited under this Convention", (3) "other peaceful purposes", and (4) to "render them consistent with the objects and purpose of the Convention".

Article XI, when read in its entirety and together with Article I, undoubtedly permits the United States to continue national security controls over exports of chemical weapons material, equipment and dual use items. We believe that Agreed Condition 7 to the Resolution of Ratification of Advice and Consent the continuing vitality of the Australia Group and national export controls is consistent with Article X and XI, and the CWC as a whole. Accordingly, we believe that Agreed Condition 7 should alleviate concerns raised by critics of the CWC concerning United States obligations under Articles X or XI. Furthermore, we would note that the United States has never been prevented (or seriously challenged) from legally pursuing unilateral and multilateral export controls on nuclear technology that it deems necessary on national security grounds, despite

objections from certain states citing Article IV of the NPT. We do not believe that the CWC requires any different course.

Throughout the Chemical Weapons Convention is a manifest effort to balance the elimination of chemical weapons with the legitimate security requirements of States as well as their legitimate need to use, develop and trade chemicals for commercial purposes. The critical characterization of the CWC quoted in the first paragraph of this letter focuses on selected provisions of the CWC reflecting only one side of this balancing effort, misreads those provisions to render them obligatory instead of voluntary or conditional, and ignores the language of the treaty as well as principles of international law. We disagree. We do not believe Articles X and XI require the United States to take any steps contrary to its security interests. Accordingly, we do believe that Disagreed Condition 32, which would require an amendment to strike Article X and amend Article XI, is legally unnecessary to preserve U.S. security interests if the United States ratifies the CWC.

Respectfully,

ABE CHAYES,
Harvard Law School.
ELLIOT L. RICHARDSON,
Former Secretary of Defense and Attorney General, Nixon Administration.
MICHAEL MOODIE,
Former Bush Administration arms control negotiator.
JOHN B. RHINELANDER,
Former deputy legal advisor and arms control negotiator, Nixon Administration.
GEORGE BUNN,
Center for International Security and Arms Control, Stanford University.
BARRY KELLMAN,
DePaul University Law School.
DAVID KOPLOW,
Georgetown University Law School.

Mr. BIDEN. More to the point, even if we were obligated—which we're not, we maintain export controls on chemical defense equipment. In other words, we do not allow it to be sold to the rogue states.

The only specific obligation contained in Article Ten is in paragraph seven, which is where you provide assistance to nations facing attack by chemical weapons.

This provision also has much flexibility—it allows a nation to choose one of three methods for providing assistance.

But to ensure that this paragraph does not become a loophole, we have added a binding condition, condition number fifteen, which limits the type of assistance we will provide—at least when it comes to countries ineligible for economic or military assistance, which includes the rogue states—to medical antidotes and treatment.

Let me now turn to Article Eleven. The proponents of this condition contend that this article requires us to weaken our export controls under the CWC.

There is nothing in the CWC that requires us to weaken our export controls. But just to ensure that there isn't any doubt, we have agreed to a binding condition that addresses the problem.

Condition seven requires the President to certify that nothing in the Convention requires us to weaken our export controls, and that the Australia Group—an informal group of potential supplier states to which the United States belongs—will continue to maintain controls over chemical weapons precursors that are equal to, or exceed, those in effect today.

the Australia Group has already indicated, as a group, that it would maintain its export controls. On October 17, 1996—a little more recently than the statement read by the Senator from Arizona—the Australia Group stated that the "maintenance of effective export controls will remain an essential practical means of fulfilling obligations under the CWC."

But just to be sure, I asked the administration to ask each country—individually—whether it intended to maintain existing levels of controls. The answers have come back—all in the affirmative—as the President stated today in his letter to the majority leader.

Finally, the President committed today, in the event that either Article Ten or Article Eleven to legitimate trade in a manner that endangers our security, the President will consult promptly with Congress on whether we should withdraw from the Convention.

This is an extraordinary commitment. So I hope it resolves everyone's concern.

Mr. President, I reserve the remainder of the time on the bill. I think I have used up all the time on the amendment.

The PRESIDING OFFICER. There is 1 minute remaining on the amendment.

Mr. BIDEN. Oh, there is 1 minute remaining on the amendment? Mr. President, in that case I have another 10 minutes.

No, if the majority is ready to yield back their time, I will yield back my minute.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. A bum deal, just like this treaty.

Mr. BIDEN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I always enjoy holding court with my friend from Delaware. We have had some of these debates in the past, and this is the thing that lawyers like to argue about, but I believe that most lawyers will agree with me that what they learned in law school was that the specific provisions of the contract always prevail over a general statement at the beginning of the contract. There are a lot of rules of instruction. Later provisions generally govern over previous provisions on the theory that you later describe your intent, fully cognizant of what existed before. The same thing is true with specific provisions of the contract, and that is why article I is called, not "CWC article I," but rather "general article." "Article I, General Obligations."

Then article II is definitions, and after that are the specifics. This is the reason why the Australia Group itself issued a statement right after this convention was entered into undertaking to review, in light of the implementation of the convention, the measures that they take to "prevent the spread of chemical substances and equipment for purposes contrary to the objectives of the convention with the aim of removing such measures for the benefit of states parties to the convention acting in full compliance with the obligations under the convention."

Australia Group members would not have had to do this under the interpretation of the convention by my friend from Delaware. Rather, they began to do this because they read articles X and XI the same as the many experts do that I cited earlier as limiting our ability to impose trade restrictions on states parties to the convention. That is why it says we will undertake to facilitate, and the other states parties have the right to the fullest possible trade in these chemical weapons. This is not just my view. I read to you what Secretary Cheney said before, James Schlesinger, former Secretary of Defense and head of the CIA. It is plain that article X legitimizes such transfers.

The PRESIDING OFFICER. The Senator from Delaware has 33 seconds.

Mr. BIDEN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated October 17, 1996—speaking of superseding—which supersedes the statement referred to by my colleague about the Australia Group. It says:

In this context, the maintenance of effective export controls will remain an essential practical means of fulfilling obligations under the CWC and the BTWC.

Translated into ordinary English, it means that we adhere to the commitment we made in the Australia Group with export controls. We believe it is consistent with the CWC and required by the CWC.

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

AUSTRALIA GROUP MEETING

Australia Group participants held informal consultations in Paris between Oct. 14–17, to discuss the continuing problem of chemical and biological weapons (CBW) proliferation.

Participants at these talks were Argentina, Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, the European Commission, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom and the United States, with the Republic of Korea taking part for the first time.

Paticipants maintain a strong belief that full adherence to the Chemical Weapons Convention (CWC) and to the Biological and Toxin Weapons Convention (BTWC) will be the best way to eliminate these types of particularly inhumane weapons from the world's arsenals. In this context, the maintenance of effective export controls will remain an essential practical means of fulfilling obligations under the CWC and the BTWC.

All participants at the meeting welcomed the expected entry into force of the CWC*, noting that this long-awaited step will be an important, historic moment in international efforts to prohibit chemical weapons. Participants agreed to issue a separate statement on this matter, which is attached.

Participants also welcomed the progress of efforts to strengthen the BTWC in the negotiations taking place in the Ad Hoc Group of BTWC States Parties in Geneva. All Australia Group participating countries are also States Parties to this Treaty, and strongly support efforts to develop internationally-agreed procedures for strengthening international confidence in the treaty regime by verifying compliance with BTWC obligations.

Experts from participating countries discussed national export licensing systems aimed at preventing inadvertent assistance to the production of CBW. They confirmed that participants administered export controls in a streamlined and effective manner which allows trade and the exchange of technology for peaceful purposes to flourish. They agreed to continue working to focus these national measures efficiently and solely on preventing any contribution to chemical and biological weapons programs. Participants noted that the value of these measures in inhibiting CBW proliferation benefited not only the countries participating in the Australia Group, but the whole international community.

Participants also agreed to continue a wide range of contacts, including a further program of briefings for countries not participating in the Paris consultations to further awareness and understanding of national policies in this area. Participants endorsed in this context the importance of regional seminars as valuable means of widening contacts with other countries on these issues. In particular, Romania's plans to host a seminar on CBW export controls for Central and Eastern European countries and the Commonwealth of Independent States in Bucharest on Oct. 21–22 and Japan's plans to host a fourth Asian Export Control Seminar in Tokyo in early 1997 were warmly welcomed by participants. Argentina will also host a regional seminar on non-proliferation matters, in Buenous Aires, in the first week of December 1996. France will organize a seminar for French-speaking countries on the implementation of the CWC. This will take place shortly before entry into force of the Convention.

The meeting also discussed relevant aspects of terrorist interest in CBW and agreed that this serious issue requires continuing attention.

Participants agreed to hold further consultations in October 1997.

AUSTRALIA GROUP COUNTRIES WELCOME PROSPECTIVE ENTRY INTO FORCE OF THE CHEMICAL WEAPONS CONVENTION

The countries participating in the Australia Group warmly welcomed the expected entry into force of the Chemical Weapons Convention (CWC) during a meeting of the Group in Paris in October 1996. They noted that the long awaited commencement of the CWC regime, including the establishment of the Organization for the Prohibition of Chemical Weapons, will be an historic watershed in global efforts to abolish chemical weapons for all time. They also noted that all states adhering to the CWC are obliged to ensure their national activities support the goal of a world free of chemical weapons.

All of the participating countries reiterated their previous statement underlining their intention to be among the original States Parties to the CWC. They noted that 24 of the 30 countries participating in the Australia Group have already ratified the Convention. Representatives also recalled their previous expressions of support for the CWC, and reaffirmed these commitments. They restated their view that the effective operation and implementation of the CWC offers the best means available to the international community to rid the world of these weapons for all time. They called on all signatories to ratify the CWC as soon as possible, and on the small number of countries which have not signed the Treaty to join the regime and thereby contribute to international efforts to ban these weapons.

Representatives at the Australia Group meeting recalled that all of the participating countries are taking steps at the national level to ensure that relevant national regulations promote the object and purpose of the CWC and are fully consistent with the Convention's provisions when the CWC enters into force for each of these countries. They noted that the practical experience each country had obtained in operating export licensing systems intended to prevent assistance to chemical weapons programs have been especially valuable in each country's preparations for implementation of key obligations under the CWC. They noted in this context, that these national systems are aimed solely at avoiding assistance for activities which are prohibited under the Convention, while ensuring they do not restrict or impede trade and other exchanges facilitated by the CWC.

Mr. BIDEN. We are ready to vote, Mr. President.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 51. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 50 Ex.]

YEAS—66

Akaka	Cleland	Dorgan
Baucus	Coats	Durbin
Biden	Cochran	Feingold
Bingaman	Collins	Feinstein
Boxer	Conrad	Ford
Breaux	D'Amato	Frist
Bryan	Daschle	Glenn
Bumpers	DeWine	Gorton
Byrd	Dodd	Graham
Chafee	Domenici	Hagel
Harkin	Leahy	Roberts
Hatch	Levin	Rockefeller
Hollings	Lieberman	Roth
Inouye	Lugar	Sarbanes
Jeffords	McCain	Smith (OR)
Johnson	Mikulski	Snowe
Kennedy	Moseley-Braun	Specter
Kerrey	Moynihan	Stevens
Kerry	Murray	Torricelli
Kohl	Reed	Warner
Landrieu	Reid	Wellstone
Lautenberg	Robb	Wyden

NAYS—34

Abraham	Gramm	McConnell
Allard	Grams	Murkowski
Ashcroft	Grassley	Nickles
Bennett	Gregg	Santorum
Bond	Helms	Sessions
Brownback	Hutchinson	Shelby
Burns	Hutchison	Smith (NH)
Campbell	Inhofe	Thomas
Coverdell	Kempthorne	Thompson
Craig	Kyl	Thurmond
Enzi	Lott	
Faircloth	Mack	

The amendment (No. 51) was agreed to.

Mr. HELMS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that I be allowed to use the 5 minutes allocated to each leader for purposes of closing debate in addition to my 15 minutes for the leader in an effort to make my statement at this point in the debate.

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

Mr. DASCHLE. Mr. President, let me begin by commending the distinguished majority leader for his leadership on this issue and for his eloquent statement earlier today. I think he spoke for a large number of the American people, both Republicans and Democrats in coming to the conclusion he did about this treaty. I rise to commend him and to support him in the decision that he made.

I also wish to commend the distinguished ranking member of the Foreign Relations Committee, the Senator from Delaware, for his leadership on our side of the aisle. No one could have managed this bill better. And we could not have come to this point were it not for the remarkable commitment he has made in the effort to pass this treaty. I thank him for his leadership in bringing us to this point tonight.

Under the terms of article II, section 2 of the Constitution, the Senate alone was granted the power to advise and consent to treaties made by the President. Our Founding Fathers also decided that approval by a simple majority was simply not sufficient for legislation of this magnitude. Instead, they established the requirement that two-thirds of the Senate must support a treaty for it to take effect.

This is as it should be. There is no more important or unique power assigned to the Senate by the Constitution than the authority to provide advice and consent on treaties. With this authority, however, comes obligations. Senators must examine a treaty not through a prism of narrow political pursuits, but rather from the perspective of broad national interests.

Put simply, the most important question we should ask ourselves when considering the Chemical Weapons Convention, or any other treaty, is, does this make sense for the Nation and are its citizens more secure?

Mr. President, after a thorough review of this treaty, its negotiating history, and the 28 conditions added by the Senate, I believe the answer to this question is a resounding and unqualified yes.

The Chemical Weapons Convention bans the development, production, stockpiling, and use of toxic chemicals as weapons. A look at the negotiating history of the CWC reveals that this treaty is truly a bipartisan product. Negotiations, as has been mentioned now on several occasions throughout the day, began with President Reagan in the early 1980s.

While the bulk of the negotiations and most of the difficult decisions occurred during the Bush administration, President Clinton finished the work started by his two predecessors and submitted the treaty to the Senate for consideration in November of 1993.

The Senate's counsel on crucial issues was sought and provided repeatedly throughout the course of the decade-long negotiations. Playing an especially important role in this regard was the Senate's Arms Control Observer Group, a bipartisan gathering of Senators with special interests and expertise in arms control matters. Currently, Senators STEVENS and BYRD lead the group.

In addition, since the treaty has been before the Senate for nearly 3 years, Members have had ample opportunity to request the information needed to reach their judgment, and more than sufficient time to carry out a thorough examination of the treaty's impact on our national security.

During that 3-year period, nearly 20 hearings have been conducted in several different Senate committees, including Armed Services, Foreign Relations, Intelligence, and Judiciary. In addition, the administration has made available over 1,500 pages of documentation on the Chemical Weapons Convention and answered over 300 questions from Senators and their staffs.

Moreover, as a result of intensive, around-the-clock negotiating sessions between the administration, Senator HELMS and Senator BIDEN, the resolution of ratification now contains 28 separate conditions on the U.S. Senate's resolution of ratification. That is 28 individual clarifications by the Senate about the terms and conditions under which the U.S. would enter into the Chemical Weapons Convention. These conditions were the product of over 100 hours of discussion. And I am told that the vast majority of the conditions address problems first raised by Republicans. I think it is safe to say that these list of conditions address virtually every legitimate concern that has been raised about the potential impact of the CWC on our national security and economy.

Mr. President, we must now evaluate what has been revealed during this process that has spanned three Presidential Administrations and includes numerous hearings, briefings and mounds of documents. What have we determined about the merits of the CWC in the nearly 3½ years since President Clinton submitted it to us?

First, officials from previous Administrations who were involved in the CWC negotiations support the treaty. General Brent Scowcroft, the National Security Advisor to Presidents Reagan and Bush, has said the following:

"The time has come for the Senate to uphold U.S. leadership in combating the proliferation of weapons of mass destruction by providing its consent to the [Chemical Weapons] Convention.

And President Bush himself, in a February meeting with Secretary of State Madeleine Albright and former Secretary of State James Baker, noted:

"I . . . strongly support efforts to get this chemical weapons treaty approved. This should be beyond partisanship. I think it is vitally important for the United States to be out front. . . . We don't need chemical weapons, and we ought to get out front and make clear that we are opposed to others having them."

Second, what are the views of America's chemical manufacturers—the industry that will be most directly affected by the provisions of the CWC? The chemical industry is America's largest export industry, posting $60 billion in export sales last year alone. Opponents of this treaty claim its ratification will lead to onerous and costly restrictions and regulations on this industry as well as the exposure of confidential, proprietary information.

The chemical industry has repeatedly refuted these claims; yet, it appears that CWC's critics are so blinded by their ideological zeal to kill all arms control treaties that they cannot take no for an answer. One of the industry's best responses was contained in a letter sent late last year to the distinguished Majority leader, Senator LOTT. This letter is an important one, so I will quote it at length:

"The chemical industry has long supported the Chemical Weapons Convention. Our industry participated in negotiating the agreement and in U.S. and international implementation efforts. The treaty contains substantial protections for confidential business information. We know because industry helped to draft these provisions . . . In short, our industry has thoroughly examined and tested this Convention. We have concluded that the benefits of the CWC far outweigh the costs. . . . Indeed, the real price would come from not ratifying the CWC. . . . If the Senate does not vote in favor of the CWC, we stand to lose hundreds of millions of dollars in overseas sales, putting at risk thousands of good-paying American jobs."

So says the chemical industry in a letter signed by the CEOs of 53 of America's preeminent chemical manufacturers. Signees include the ARCO Chemical Company, the Ashland Chemical Company, the Bayer Corporation, the B.F. Goodrich Company, the Dow Chemical Company, the Eastman Chemical Company, the E.I. Dupont Company, the Exon Chemical Company and the Monsanto Company. I should also note that these companies issued this statement before we agreed upon the 28 conditions I discussed earlier, several of which would further reduce the possibility that proprietary information from American businesses would fall into the hands of our adversaries.

Well, Mr. President, what about the military? After all, it is our men and women in uniform who must face, as they did in Desert Storm, the threat of an attack from lethal chemical weapons. Make no mistake. We are talking about invisible and instantaneous killers. What about our people in the Pentagon who have to make the decisions that may ultimately lead to the exposure of our troops to that insidious threat? General Shalikashvili, the Chairman of the Joint Chiefs of Staff, testified before the Senate Foreign Relations Committee:

"The potential benefits of the Chemical Weapons Convention will have a positive impact on the lives of our service people and how the U.S. military fulfills its responsibility to national security."

In another appearance before the Foreign Relations Committee, General Shalikashvili noted:

"From a military perspective, the Chemical Weapons Convention is clearly in our national interest. The non-proliferation aspects of the convention will retard the spread of chemical weapons and, in so doing, reduce the probability that U.S. forces may encounter chemical weapons in a regional conflict."

Some may argue that General Shalikashvili is but one general who was appointed by President Clinton. To those skeptics, let me say three things. First, General Shalikashvili's record of service to this country is unparalleled. Second, a comprehensive review of this record will not reveal a single instance where he failed to offer anything but than his objective, untarnished opinion. Third, he is not alone.

An April 3 letter to the President states the following:

The CWC destroys stockpiles that could threaten our troops; it significantly improves our intelligence capabilities; and it creates new international sanctions to punish those states who remain outside of the

treaty. For these reasons, we strongly support the CWC.

Mr. President, that letter was sent on behalf of 16 three- and four-star generals and admirals, including Colin Powell, John Vessey, and Norman Schwartzkopf. This letter, in addition to an endorsement by David Jones, means that every occupant in the last 20 years of the position of chairman of the Joint Chiefs of Staff, this Nation's highest military office, has come out in support of the CWC.

The final group the Senate has heard from in its efforts to weigh the pros and cons of the Chemical Weapons Convention is the intelligence community. The task of verifying this treaty, like other arms control treaties, ultimately falls on the shoulders of the Central Intelligence and the other organizations within the intelligence community. Despite the most comprehensive, intrusive verification regime in the history of arms control, critics of CWC argue that it is unverifiable; if they had their way, the Senate would reject the CWC because the intelligence community will be unable to detect any violations of the treaty itself. But in this case, the perfect is the enemy of the good.

While the intelligence community has rightly acknowledged that it cannot detect any production of chemical agents—anywhere or at anytime—it has also said that it can effectively verify the provisions of this treaty. Moreover, the critics' argument ignores the fact that, with or without the Chemical Weapons Convention, our intelligence community will still seek to collect information on efforts by foreign nations to develop and produce chemical weapons. The more important question is whether our intelligence and nonproliferation efforts are helped or hindered by the adoption of the treaty.

According to James Woolsey, then director of the Central Intelligence Agency, and since confirmed by George Tenet, acting director of the CIA:

> The Intelligence community has the broader mission—with or without the treaty—of detecting the existence and assessing the threat from chemical weapons programs of any country. This mission must be carried out regardless of whether we have the additional requirement to assess such activities against the provisions of the treaty. And it is to this broader mission that the CWC can make a significant contribution.

The Senate has heard from President Reagan's National Security Advisor, from President Bush, from the leading figures in the chemical industry, from the current chairman of the JCS, three of his predecessors and 14 other three- and four-star generals and admirals, and from the intelligence community. Each of these groups and individuals have looked at the CWC from their unique perspectives and interests and each has reached the same conclusion: the Senate should support this treaty and should do so promptly.

Mr. President, I would submit since the Senate received the CWC treaty for its advice and consent, one other group has spoken all too loudly to us: those who commit terrorist acts. In the 3½ years this treaty has been before the Senate, terrorist incidents have occurred with a sickening and disturbing regularity: the sarin gas attack in the Tokyo subway; the bombing of the Murrah Federal Building in Oklahoma City; the attack on Khobar Towers in Dharan, Saudi Arabia; the suspected bombing of TWA flight 800; the bombing in Olympic Park in Atlanta. Each incident has painfully dramatized the fact that we live in an age where, unfortunately, no one is inoculated against the threat of terrorism. No community stands outside the reach of determined terrorists. As President Clinton noted in a recent address, "Terrorism has become an equal opportunity destroyer, with no respect for borders."

This treaty is an opportunity to send a small message to those who threaten our families, our communities and our way of life with their unprovoked acts of violence.

The United States Senate has heard what terrorists have to say. Today, with our votes on this treaty, we determine how the United States Senate will respond to these acts. I hope we will send the message that we are going to do all we can to ensure that these deadly chemicals will never be the means terrorists employ to advance their cause. It is time we said to the terrorists, on the issue of chemical weapons, enough is enough.

Now the argument will be made that this treaty will not halt terrorism, will not shut down the private laboratories of insane extremists and will not halt the efforts of various rogue nations.

To a certain degree, that is probably true. But what this treaty will do is begin the orchestration of a concert of nations—an orchestration of civilized voices that speaks out forcefully against an unambiguous evil.

Tonight America has the opportunity to make the moral stand. We are destroying our own chemical stockpiles. We began that cleansing process under President Reagan and it continues today. Why should we oppose a treaty that demands the world to live up to a moral standard that we have already willingly accepted ourselves? Why deprive ourselves of the right to call upon our neighbors to live up to the example that we in the United States are willing to act?

In summary, Mr. President, this is a necessary treaty. It has been endorsed by a bipartisan group of Senators who are experts on this issue, by advisors to Presidents Reagan and Bush, and President Clinton, by the U.S. military, by our chemical industry and by our intelligence community.

To all of this I would add two final points. First, over 80 percent of the American people have indicated their support for ridding the world of toxic agents by ratifying the CWC. Second, over 70 countries have already ratified this treaty and thereby forsworn the use of chemical weapons. Mr. President, this treaty is going to happen with or without us. I urge the Members of this body to set aside partisan differences, demonstrate leadership to our friends and enemies alike, join with those who have already ratified this treaty and take the first step toward eliminating these evil weapons. Mr. President, I ask that the Senate ratify this treaty.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. How much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 21 minutes, the Senator from Delaware has 7 minutes, the Senator from Vermont has 8½ minutes, and the majority leader has 5 minutes.

Mr. BIDEN. I yield myself such time as I may consume under the 7 minutes. I do not plan on using it all.

Mr. President, it has been a long road to this spot, this point. We have had not only extensive debate in the last 2 days, we have had an extensive debate on this floor, in committees, in the press, among foreign policy experts, think-tank types, for the past 3 years. We reached the point where we are constitutionally required to fulfill a duty of either giving our consent to ratification or withholding it. As both leaders have pointed out, it is maybe the most significant responsibility delegated to the U.S. Senate

I realize that we sometimes stand on this floor, particularly when any one of us and all of us have invested a significant amount of time in one issue or another where we feel that we have spent most of our waking hours for the past month, two, or three—everyone has experienced that on this floor—and we tend to think that since we put so much time into the passage of a piece of legislation, or in this case, a treaty, that maybe it is the most important thing that the Senate has done or could do because I guess we say to ourselves we would not invest that much of our time, our energy, our mind, our soul, into the effort if it was not so important.

Acknowledging that we all err on that side of thinking what we do is sometimes more important than what it is, I respectfully suggest that the vote each of us is about to cast on this treaty is likely to be the most significant vote any of us cast in this Congress.

Twice today I have been referred to as the senior Senator from Delaware. I want the record to show, I know I am the junior Senator. I am the second most senior junior Senator in the United States. I have been here 25 years, but that young man in the back

there is the most senior junior Senator, the distinguished Senator from South Carolina, Senator HOLLINGS, because the most senior Senator of senior Senators is his colleague, Senator THURMOND.

Mr. President, I am not sure that there is any vote that I have cast in the last 4 or 5 years that I think is as significant for the future of the United States as this treaty. And as I said, and I will conclude with this, not merely because of what the treaty attempts to do—and that is, for the first time in the history of modern man, ban even the possession of an entire category of weaponry—but that is not the reason why this is the most important vote. We are at a juncture in our history, Mr. President, in my opinion, where the United States has an opportunity, which rarely comes to any nation in its history—it has come to us, in my opinion, on two occasions—where our actions and our leadership can literally, not figuratively—and it is not hyperbole—can literally shape, at least on the margins, the future of the world.

After World War II, we stepped up to the plate. My father's generation and my grandfather's generation and grandmother's and my mother's generation stepped up to the plate. They did things, when we look back on them, that must have taken incredible courage. Can you imagine having over 10 million men still under arms and standing up as a Senator, or as a President, or as a Secretary of State, and saying, by the way, I want us now to send billions of dollars to those people who killed our sons and daughters? That was the Marshall Plan. Can you imagine the foresight it took and how difficult it must have been to cast a vote to set up an outfit called NATO, of which Germany, our sworn enemy that killed our sons and daughters, were members? Those people had courage. But they did what the Senator from Indiana, Senator LUGAR, said: They led.

This is about leadership. This is about the role of the United States in leading the world. If we refrain from exercising that opportunity—and we will if we do not vote for this treaty—we will have passed up an opportunity that, as I said, rarely comes to any nation in the history of the world. We can affect, if we are wise, the behavior, activity and actions for a generation to come, not for what is contained in this treaty, but because of the leadership that was demonstrated in drafting this treaty, in ratifying this treaty and enforcing this treaty.

So, Mr. President, I realize that all of us—myself included—tend to engage in hyperbole and rhetoric that doesn't mean the substance of what we are talking about. But I honestly believe this is one of the most important votes, in terms of the future of this country and its ability to lead at a moment in history that seldom comes to any nation, that may be the most important vote that any of us will cast. If we embark on this path of continuing to engage the world and lead the world, we maintain the reasonable prospect that we can make the world—the world—a better place in which to live.

I yield the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I am profoundly disappointed in the five votes of the Senate on the important, vital amendments. After all the debate, all the gallons of newspaper ink spilled, all of the negotiations—ultimately, I had hoped for better. But so be it.

There isn't a person in this room, rhetoric aside, who can believe that the amendments that we have just considered are "killer amendments." The nature of international relations, and of treaties is that what is negotiated can be renegotiated, and if necessary, negotiated anew. If our aim is a better future, what are a hundred more meetings in Geneva, or Vienna or the Hague? These amendments would have ensured that this treaty did no harm, even if it did no good.

Now, we must vote on a treaty that, stripped of these key protections, four former Defense Secretaries have told us is contrary to the national security interests of the United States.

The truth is that I cannot abide the pretense of action on a matter as weighty as the proliferation of weapons of mass destruction. If we ratify this treaty today, the Senate, with the President, will announce to the world that we have done something about the scourge of chemical weapons. We will pat ourselves on the back and go home.

But, Mr. President, we will have done nothing. And, worse than nothing, we will have done harm. In the name of curbing the proliferation of these chemicals, we will allow rogue states to gain access to our most precious defense secrets. We will guarantee that rogue nations of the World—both those who have signed this treaty and those who have not—have the ability to manufacture chemical weapons and penetrate our Nation's most advanced chemical defenses.

Article X and XI—"Poisons for Peace"—will foster the proliferation of those very poisons. Anyone who doubts that need only look to how Russia has abused similar provisions in the Nuclear Non-Proliferation Treaty. The N.P.T.'s "Atoms for Peace" provisions allows Russia to transfer to Iran, a terrorist state, a nuclear reactor. Russia has argued that the sale is perfectly legal, and Russia is right. Iran, despite its nuclear weapons program and its chemical weapons program, is a nation in full compliance with the Non-Proliferation Treaty. And so it will get one nuclear reactor from Russia, maybe more. And perhaps China will throw in a reactor or two as well. And we can do nothing to stop it.

The administration says that we will not sell Iran chemical technology or defensive gear under the similar provisions of the CWC. We are not selling them nuclear reactors either. Russia is.

And it will not be the United States which provides Iran the chemical technology. They will get it from Russia and China under "Poisons for Peace." And Iran will give it to its terrorist allies Syria and Libya, who have not signed up to the treaty. And we will be powerless to protest—because if we ratify this treaty, here, today, in this body, we will have endorsed those transfers.

Now this morning the President has offered us some sweeteners for the hemlock he is asking us to swallow. He promises to keep an eye on any problems Articles X and XI may cause. I appreciate his willingness to recognize the legitimacy of the concerns my colleagues and I have expressed. However, I can't help but feel that this last ditch attempt to buy off opponents to this dangerous treaty is nothing more than empty promises.

I am a veteran of the counter-proliferation wars. Every week, I see more and more classified information about proliferation activities that should require the President, under existing law, to levy sanctions against Russia, China, or both. We never do, and we won't under the terms of the CWC with or without the assurances under Article X and XI. The President doesn't want to fight with those 800-pound gorillas. In much the same way as we will turn a blind eye while Russia helps Iran get a nuclear weapon, we will allow others to develop chemical weapons. And there won't be a darn thing we'll be able to do.

Should Articles 10 and 11 of the CWC be renegotiated? Yes. Did the Senate err by stripping out the protections we inserted that would have required the administration to do so? Yes. And I am deeply disappointed that I was unable to convince my colleagues of the danger to the people of the United States and our allies. We have made a terrible, potentially cataclysmic, mistake today in ignoring the desperate need to revise the terms of this treaty.

Without revision of Articles 10 and 11, this treaty is bad for America, and bad for the world. It must be voted down. For it we ratify this treaty, our children and our grandchildren will hold us accountable. They will hold us accountable when Iran or Syria or Libya or North Korea finally uses a chemical weapon—and they will do so—built with technology they acquired thanks to Articles 10 and 11 of the CWC. They will look back on this debate, look back on where each of us stood, and—mark my words—they will hold us accountable.

Mr. President, let us listen to the wisdom of the four former Secretaries of Defense, who have urged us to oppose this treaty. Let us listen to the mountain of evidence—classified and unclassified—that has been presented over the past two days as to the dangers posed by this treaty. And most important, let us listen to our consciences. Let us vote to reject the Chemical Weapons Convention.

AMENDMENT NO. 52

Mr. HELMS. 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 North Carolina [Mr. HELMS], for Mr. BIDEN, proposes an amendment numbered 52.

Mr. HELMS. 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 2, line 18, strike "payments" and insert "any payment".

On page 6, line 3, strike "the head of".

On page 8, line 2, insert "or such other organization, as the case may be," after "nization".

On page 8, line 10, insert "or the affiliated organization" after "tion".

On page 9, line 11, insert "or the affiliated organization" after "Organization".

On page 9, line 17, insert "or the affiliated organization" after "Organization".

On page 13, line 21, insert ", and any official or employee thereof" after "it".

On page 14, line 5, insert ", and any official or employee thereof" after "functions".

On page 15, lines 6 and 7, strike "to United States ratification" and insert "affecting the object and purpose".

On page 18, line 2, insert "support for" after "resolution of".

On page 20, line 12, strike "citizens," and insert "citizens and".

On page 23, line 18, strike "obligation" and insert "obligations".

On page 25, line 19, strike the comma.

On page 32, line 13, insert "of Representatives" after "House".

On page 32, lines 19 and 20, strike "Foreign Military Sales, Foreign Military Financing," and insert "Foreign Military Sales and Foreign Military Financing under the Arms Export Control Act".

On page 34, line 1, strike "Committee" and insert "Committees".

On page 34, line 3, insert "the" after "and".

On page 37, line 11, insert a comma immediately after "games".

On page 40, line 9, strike "of" and insert "for".

On page 41, line 16, insert "of the Convention" after "ratification".

On page 47, line 19, insert "the ratification of" after "to".

On page 49, line 5, move the margin of "(i)" 2 ems to the right.

On page 49, line 11, move the margin of "(ii)" 2 ems to the right.

On page 49, line 16, move the margin of "(iii)" 2 ems to the right.

On page 52, line 9, insert a comma after "(D)".

On page 53, line 21, strike the comma.

On page 55, line 4, insert "a schedule of" after "to".

On page 57, line 1, strike "the" the first place it appears and insert "to".

On page 59, line 15, strike the comma.

On page 61, line 11, strike "on an involuntary basis".

On page 61, line 12, insert "where consent has been withheld," after "States,".

On page 8, line 8, insert ", if accepted," after "provision".

On page 25, line 19, insert "on Intelligence" after "tee".

On page 27, line 7, strike "is" and insert "are".

On page 27, line 22, insert "on Intelligence" after "Committee".

On page 57, line 15, strike "Ruanda" and insert "Rwanda".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 52) was agreed to.

Mr. KEMPTHORNE. Mr. President, it was President Ronald Reagan who said, "Trust but verify." Sound advice I believe we should heed today.

Reluctantly, I rise in opposition to the Chemical Weapons Convention. Do I want to see the elimination of chemical weapons and deadly poisons? Absolutely. Will the proposed treaty actually prevent the use of chemical weapons? Not in my opinion. As I've listened carefully to all of the arguments, I have concluded the proposed treaty will not do what it is intended to do, and, in fact, may actually do more harm than good.

Again, trust but verify.

Like many Americans, I took notice when four recent Secretaries of Defense came out in opposition to the Chemical Weapons Convention. The opposition of Secretaries Schlesinger, Cheney, Rumsfeld and Weinberger is based, in part, on the fact that the treaty is not verifiable. In other words, we have no way of knowing if our "partners" in this agreement are living up to their end of the deal. Like the four former Secretaries of Defense, I am troubled by statements by CIA and Department of Defense officials that admit they do not have "high confidence" the treaty can be verified, key provisions "can be thwarted" and detection of small amounts of chemical weapons "will admittedly be extremely difficult." In my mind, the admission of Clinton Administration officials that the treaty is not verifiable raises serious questions about the value of the agreement.

The Chemical Weapons Treaty also contains provisions, Articles X and XI, which mandate the sharing of all chemical equipment and technology, including chemical weapons defensive technology, with other countries. These provisions might allow countries like Iran and Iraq to acquire advanced defensive technologies so they can improve their chemical weapons combat capability. This exchange of technical information, mandated by the treaty, may also be used to develop ways to defeat our chemical weapons defensive technology. Because of these flaws in the treaty, Secretary Cheney wrote "In my judgement, the treaty's Articles X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the globe." This mandated sharing of technology represents one example of how the treaty may actually do more harm than good.

I want to point out that one of the conditions removed from the Resolution of Ratification directed the U.S. to renegotiate Articles X and XI to ensure the treaty does not inadvertently increase the threat of chemical weapons. The Clinton Administration viewed the requirement to renegotiate the treaty as a "killer amendment" and encouraged the Senate to strike this condition. Under pressure from the President, the Senate voted to remove this condition so renegotiation of these important articles will not happen.

In addition, the President's letter to Majority Leader LOTT on the day of the vote acknowledges that there are legitimate security concerns regarding the flaws in Articles X and XI. I'm troubled because the letter is non-binding and it will be three years before we will discover if Articles X and XI lead to the proliferation of chemical weapons technology. The President says the U.S. could then withdraw from the Convention, but by then the damage will have been done.

If I believed this treaty by itself would stop chemical weapons, I would support it. During my own deliberations regarding the CWC, I had a thoughtful discussion with James Schlesinger, a former Secretary of Defense, Secretary of Energy and Director of the Central Intelligence Agency. Secretary Schlesinger made the point that although scores of nations ratified the Geneva Protocol which claimed to "prohibit" the use of poison gas, Iraq used mustard gas against Iran and its own citizens with impunity. In my mind, this episode demonstrates one of the weaknesses of international treaties which sound good on the surface but lack enforcement procedures in practice.

I am also concerned about the provisions of the Chemical Weapons Convention which will allow international inspectors access to chemical businesses and other important national security facilities. The idea that North Korea or Iraq can come into the United States and examine our facilities and then take that information home to help their own chemical and defense industries is wrong. The treaty makes no arrangement to compensate businesses for the loss of this sensitive data. This is another reason I believe the Chemical Weapons Convention will, in fact, do more harm than good.

As a member of the Senate Armed Services Committee, I understand the

military threat posed by chemical weapons. I continue to support efforts to destroy the U.S. chemical weapons stockpile in a safe and environmentally sensitive manner. I oppose any use of these horrible weapons and I believe the United States should threaten massive retaliation against any nation that might consider using these weapons against our citizens or soldiers. I am also very proud of the leadership role of the United States in the fight to stop the spread of chemical weapons. Without a doubt, this leadership role will continue whether or not we ratify the CWC.

But we must also be honest with ourselves. The Chemical Weapons Convention cannot be verified. The treaty will not prevent countries or terrorists from acquiring or using chemical weapons. The treaty may in fact increase proliferation of advanced defensive technologies and the treaty may jeopardize proprietary information of U.S. companies.

As I weigh these facts, I conclude the Chemical Weapons Convention will do more harm than good and I will cast my vote against the ratification of this treaty.

Mr. DEWINE. Mr. President, I will vote today to ratify the Chemical Weapons Convention (CWC). I do so without any illusions. I have concluded that it will be of marginal benefit, but that its benefits do outweigh the risks. Clearly, no chemical weapons treaty can be 100% verifiable. Inside the CWC, there is at least a better chance of catching violators than if we remain outside the treaty.

I commend the Chairman of the Foreign Relations Committee, Senator HELMS, as well as Senator KYL, and others who have worked so hard to improve this treaty. As a result of their efforts, for example, we retain the right for our troops to use tear gas in hostage rescue operations; we require search warrants in cases where consent is not granted to protect 4th amendment rights; and we restrict U.S. assistance to rogue nations under Article X to medical antidotes and humanitarian assistance.

This is a historic agreement bringing together 74 countries that have ratified the treaty in a comprehensive, worldwide fight, to ban chemical weapons. The treaty requires all nations to follow America's lead to destroy all chemical stockpiles by 2007. The CWC also provides for sanctions against those who trade in chemical agents with nonparties to the treaty. These provisions will help to ensure that on a future battlefield our troops will be less likely to face chemical agents.

Passage of this treaty should not bring a false sense of security. A treaty alone will not protect our troops and citizens from chemical weapons. We should continue to devote attention and resources to improving our chemical weapons defenses. We should provide our troops with the equipment and training they need in combat situations. The parties to this treaty must also take action against violators who resort to using chemical weapons. As a member of the Intelligence Committee, I will work to ensure that the goals of this treaty are not lost in its implementation.

Mr. FEINGOLD. Mr. President, I rise today in support of the resolution of ratification of the Chemical Weapons Convention.

I am pleased that—more than 3 years after the administration sent this treaty to the Senate—the CWC is finally before us on the floor of this Chamber.

In these three years, Mr. President, three Senate committees have held numerous hearings—nearly 20 of them—on the efficacy of this treaty. As a Member of both the Foreign Relations and Judiciary Committees, I have been privileged to participate in several of these hearings and to hear numerous perspectives during this debate.

More recently, several Senators and Administration officials have spent a considerable amount of time negotiating the terms under which this treaty would come to the floor. And so I think we should all thank the Chairman of the Foreign Relations Committee [Mr. HELMS] and the Senator from Delaware [Mr. BIDEN], the ranking member of that committee, for the time they both have spent on this issue.

I would also like to recognize the efforts of the White House Working Group and the LOTT Task Force to come to a consensus on the aspects of this treaty on which we can agree. I know that the Members and Administration officials involved in these negotiations have spent hours reviewing countless technical details. It is because of these efforts that the resolution of ratification before us today contains 28 agreed-upon conditions. These conditions were carefully crafted by our colleagues to respond to Members' specific concerns. I am myself comfortable with these conditions, which, for the most part, duly exercise the Senate's prerogatives with respect to treaty ratification, and instruct the administration to undertake certain commitments. They also require greater reporting requirements which will help the Senate to monitor U.S. participation in the Convention in the future.

I am pleased that our colleagues have come to agreement on these points, because throughout the deliberations over this convention, I have made two observations: No. 1 the CWC is not a perfect document, and No. 2 notwithstanding that, the CWC is the best avenue available today for beginning to control the spread of chemical weapons, and leading, eventually, to the total elimination of such weapons.

Like any document arrived at through consensus, the Chemical Weapons Convention can not claim to address every party's concerns. But, it is my view that the 28 agreed-upon conditions in the resolution before us today serve to strengthen what we do have.

Let me speak first on my initial point—that the CWC is not a perfect document. There are real flaws that we all recognize, and that experts both pro and con acknowledge, related to the verifiability of the CWC. There may well be cheating, evasions, and attempts to disobey the spirit, as well as the letter, of the treaty. Some of this cheating may escape detection—although not enough, I believe, to pose a legitimate threat to the security of the United States.

Nevertheless, I think we gain more by establishing an international regime that prohibits such behavior than we do by refusing to exercise U.S. leadership in that regime.

My second, and more important, point is this: The CWC is the best avenue available today for beginning to control the spread of chemical weapons, and leading, eventually, to the total elimination of such weapons.

Those countries that do ratify the treaty—and this group represents most of the responsible players on the international stage—recognize that through the CWC, the world firmly rejects the existence and use of chemical weapons. The treaty puts in place mechanisms to enforce its precepts and monitor its progress, and signatories are committed to complying with these mechanisms.

What of the handful of nations who flout international will, and will not sign on to this treaty?

First, defense experts at the very top of our military command structure are satisfied that the use of chemical weapons by these so-called rogue states does not pose a significant threat to our national security. In March 1996, then-Secretary of Defense William Perry told the Foreign Relations Committee that he was "damm sure" that the United States could respond massively and effectively to any chemical weapons challenge.

Moreover, the CWC will make it easier for the international community to track the chemical ingredients necessary for weapons production and to inhibit the flow of these materials to rogue or non-signatory states. The Convention will impose trade sanctions on non-signatory countries whether or not they are known to posses chemical weapons. This provision was devised by the Bush administration specifically to make it expensive for countries not to join this Convention.

As Secretary of State Madeleine Albright said in testimony before the Foreign Relations Committee earlier this month, "These penalties would not exist without the treaty. They will

make it more costly for any nation to have chemical weapons, and more difficult for rogue states or terrorists to acquire materials needed to produce them.''

Those states that we are most concerned about currently are unwilling to accept the norms that the treaty would establish. That is why they have thus far chosen not to ratify. But it is just as clear these states will never accept the treaty if the United States refuses to ratify.

This is why I plan to vote in favor of striking the so-called killer amendments that would tie the deposit of our instrument of ratification to the actions of these nations.

If the linkage were to remain in the resolution, the Senate would become responsible for painting the United States into a very uncomfortable corner, a corner from which we would be unable to exit. Such conditions would force the United States, which led the negotiations of this treaty, to engage in a game of chicken with other countries. It should instead join our allies in ratifying this treaty.

Mr. President, this treaty provides a solid start to limiting the flow of chemical weapons.

It urges the destruction of all chemical weapons. It will provide more information about the prevalence of chemical weapons than we have ever had before. And it will make the dissemination of such weapons—and the materials used to make them—more actionable than they have ever been before.

Mr. President, do I think the treaty could be improved? Of course. So I am pleased that the CWC has the provision for amendment after it comes into force.

But now is not the time to debate amendments to the treaty. One hundred sixty-one nations have signed the Chemical Weapons Convention and 74 of them have ratified it.

I think we can all assume that—just as we played a leading role in negotiating the existing treaty—the United States will again be at the forefront of efforts to make the treaty more effective after a period to test its utility. We have the technological means and the economic weight to do so. But only if we ratify this treaty prior to its entry into force on April 29. Only by that deadline—now less than a week away—will the United States be a full participant in the Organization for the Prohibition of Chemical Weapons [OPCW], the governing body that will have the responsibility for deciding the terms for the implementation of the CWC.

Would I like to see the enforcement provisions of the CWC written in a less ambiguous manner? Certainly.

Could sanctions against violators be spelled out more clearly? Absolutely.

But the CWC was laboriously crafted throughout three decades to meet the security and economic interests of States' Parties. The United States led this effort, and the treaty which we are voting on reflects our needs. As Secretary Albright has said, this treaty has ''Made in the USA'' written all over it. That is why the CWC has the blessing and enthusiastic support of our defense and business communities.

Mr. President, I would like to address an issue that is of particular importance to me, and that is the potential constitutional implications of this treaty.

In particular, the argument has been made, incorrectly in my opinion, that adoption of the CWC would subvert, in some way, the constitutional protections of the fourth amendment which—as Americans—we all enjoy. Let me say at the outset that preserving the fourth amendment is a responsibility that I take very seriously and very personally. My concern about preserving the protections of the fourth amendment does not end at the corners of this treaty. I have opposed in this Congress proposals to weaken the fourth amendment's protections, for example, in the area of wire taps.

In fact, I am pleased to see that throughout the debate over this treaty, many of my colleagues have taken an active interest in promoting the rights bestowed upon us by the fourth amendment. Indeed, I welcome the opportunity to work with these members on future initiatives related to this vital provision of our Constitution.

With respect to the claim that ratification of this treaty risks constitutional protections for Americans, I think three points need to be stressed.

First, this treaty, and in particular the inspection language therein, is the product of bipartisan efforts spanning many years. In fact, it was the Bush administration which rejected efforts to adopt overly broad, and undoubtedly unconstitutional inspection proceedings in favor of those in the treaty today.

Second, although the treaty itself acknowledges the supremacy of the constitutions of its signatories, this would be the case even without specific language. The Senate cannot, be it through signing a treaty or passing a law, subvert any of the protections guaranteed by our Constitution. That is the very essence of our Constitution: it is the bedrock of our freedoms and cannot be abrogated short of amendment to the Constitution itself.

Mr. President, during a Judiciary Committee hearing last September, I questioned Professor Barry Kellman of the DePaul Law School on various aspects of the constitutionality of this treaty and on each of the points I have raised here today. On each point, Professor Kellman was in agreement with me. In fact, Professor Kellman, who has dedicated many years, and much time and energy to reviewing the constitutional implications of the Chemical Weapons Treaty, testified that, ''every serious scholar'' who has looked into the issue has found this treaty to be constitutional.

Finally, to the extent there are concerns to be addressed, and there may be, the proper context for airing those concerns is during what I expect to be a lively discussion over the implementing legislation, which we will have a chance to debate in the next several weeks. It is in the implementing legislation—not the treaty itself—where these issues should be addressed and resolved.

I look forward to working with concerned colleagues as we consider implementation of the treaty, so I am pleased that the unanimous consent agreement arrived at regarding the resolution of ratification before us today included the intent to debate and vote on the implementing legislation prior to the Memorial Day recess.

As the debate over the implementing language continues, I will work with my colleagues to ensure that the language we ultimately adopt fully and properly reflects the protections embodied in the United States Constitution.

In the interim, however, we should not become side-tracked by arguments that this treaty is unconstitutional or subverts the fourth amendment. The inspections conducted pursuant to this treaty will be conducted pursuant to the Constitution of this nation. Nothing in this treaty can, nor does it even attempt to, alter that simple, but fundamental fact.

Mr. President, I support the ratification of the Chemical Weapons Convention which I believe is in the best interests of the United States.

And if the Senate is to lend its support to this treaty, we must vote to strike each one of the five conditions before us. Four of these would pronounce the treaty dead on arrival by linking the deposit of the U.S. instrument of ratification to conditions that are simply impossible to achieve—by April 29, or at any time in the near future. The other condition would establish a precedent for the selection of inspectors that would greatly undermine the entire inspection process.

Mr. President, it is imperative that those of us who support this treaty help strike the language that would undermine U.S. participation in the Convention in this manner.

And, after doing so, Mr. President, I hope my colleagues will join me in voting for final passage of the resolution of ratification.

Mr. LAUTENBERG. Mr. President, I rise to urge my colleagues to ratify the Chemical Weapons Convention.

The Chemical Weapons Convention is a historic arms control treaty which will significantly enhance America's security. The treaty prohibits the development, production, acquisition,

stockpiling, and transfer of chemical weapons by those countries that are signatories. It requires signatories to begin to destroy their chemical weapons within a year and to complete destruction of chemical weapons within ten years. Importantly, it prohibits the use of chemical weapons in combat, and it prohibits signatories from helping other countries to engage in any activity banned by the treaty. As such, the Chemical Weapons Convention is an important non-proliferation tool that will help slow the spread of dangerous chemical weapons and force the destruction of most of the world's chemical weapons stockpiles.

President Reagan recognized the wisdom of working to ban chemical weapons worldwide. Under his administration, negotiations on the terms of a chemical weapons treaty began. Those negotiations continued under President Bush, who signed the treaty. Now, five years after completion, with the full support of President Clinton, the Chemical Weapons Treaty is before the Senate for ratification.

There are many good reasons to support the Chemical Weapons Treaty. First, and foremost, this treaty will protect America's military from the threat of chemical weapons attack without requiring America to give up anything militarily. The United States has already decided to destroy its stockpile of chemical weapons and has vowed not to use chemical weapons in warfare. Because the Chemical Weapons Convention requires other nations to abandon chemical weapons as the United States has done, America gains from this treaty. We give up nothing, and our troops will be less likely to face poison gas in future conflicts.

Civilians in America and worldwide will benefit from Senate ratification of this treaty as well. Last year's terrorist attack in Japan, in which chemical weapons were used against innocent civilians, reminds us that none of us is safe from the threat of chemical weapons. As long as chemical weapons are produced and stockpiled, the possibility remains real that they will end up in the hands of terrorists. Because the Chemical Weapons Convention requires all countries to enact laws making it a crime to develop or produce chemical weapons, the treaty will make it harder for terrorists to obtain chemical weapons, making America's cities, streets, and schools safer.

Additionally, the Chemical Weapons Convention will help America and the intelligence community to better track and control the spread of chemical weapons and to punish violators. Through the verification regime established by the treaty, our country will have an easier time monitoring chemical weapons threats and establishing rigorous verification procedures to prevent cheating.

Already seventy countries have ratified the treaty, and it will go into effect with or without the United States. But if the Senate does not ratify the treaty, America will be siding with rogue nations like Iraq and Libya. If the Senate does not ratify the treaty, American industry will be sanctioned and will lose roughly $600 million in trade, a point I addressed more fully in an earlier speech to the Senate. If the Senate does not ratify the treaty, America will not be able to participate in the body that will determine the rules for implementing the treaty. And if the Senate does not ratify the treaty, America's credibility as a proponent of nonproliferation and arms control will be jeopardized.

Mr. President, there is no doubt in my mind that the United States should join a treaty we helped to shape and which enhances our security. With the Chemical Weapons Convention and our leadership, other nations will follow the lead America set years ago by giving up chemical weapons. Rogue nations and terrorist countries will have a harder time acquiring or making chemical weapons, and new tools will be available to prevent and punish them if they try. America is much better off with the Chemical Weapons Convention than without it, and I urge my colleagues to ratify it without delay.

Mr. GORTON. Mr. President, I have thought long and hard on whether I should vote to ratify the Chemical Weapons Convention. I must admit that as the Convention was originally presented, I was inclined to oppose it. But after three weeks of hard work with the Majority Leader and with the many thoughtful opponents of ratification, I believe we have resolved a significant number of issues in contention and now believe that ratification of the Chemical Weapons Convention will do more to reach our common goal of eradicating these deadly and detested weapons from the earth than will nonratification.

First, I would like to commend my many constituents, and the thousands of Americans like them, who were relentless in raising their voices against many dangerous aspects of the treaty and its interpretation. Without their vigilance, we would never have reached the point we have today.

I also commend Senator HELMS, Senator KYL, and the Majority Leader for their work and negotiations with the Administration that has led to vast improvements in the Chemical Weapons Convention ratifying documents.

Since the beginning of the debate on the Chemical Weapons Convention, I have stated that the real question is not whether to support the cause of restricting the production, stockpile, and use of chemical weapons throughout the world, but whether the Chemical Weapons Convention itself advanced or inhibited this honorable cause.

As it was originally presented to the Senate for ratification, Mr. President, I believe the treaty did not advance our cause, but instead inhibited it by making sensitive information on chemicals and chemical weapons technology so readily available as to encourage the proliferation of these hideous weapons. But through the good work of Senator HELMS and Senator KYL, we were able to reach 28 agreements with the Administration. These 28 agreements went a long way toward advancing our cause. I think three of these agreements are particularly important.

First, I shared the concern of many of my constituents and several former Secretaries of Defense who testified before the Armed Services Committee that the convention would create a false sense of security, not only in the United States, but in nations around the world. It would be easy, Mr. President, for governments to believe that, because the Chemical Weapons Convention is in force, we no longer need to worry about the use of chemical weapons or to prepare ourselves to defend against them. I found this aspect of the treaty to be quite troubling.

No arms control treaty has yet proven to be perfect. And chemical weapons are far more difficult to detect than missiles or nuclear warheads. Thus, I originally feared that ratification of the treaty would lull us into a false sense of security in which our armed forces would not be properly prepared to deal with a chemical attack.

I now believe, however, that the agreement reached between Senator HELMS and the Administration that ensures our armed forces will continue to receive the equipment and training necessary to complete their missions in the face of chemical weapons is a major improvement which will guard against a debilitating false sense of security.

Second, I and many of my constituents had grave concerns about the treaty's impact on Fourth Amendment protections against unreasonable searches and seizures. The treaty, in its original form, did not go far enough to protect U.S. citizens and businesses from involuntary inspections. The treaty's provisions on challenge inspections of chemical producing facilities in the United States did not, in my opinion, comply with the Constitution.

I am pleased that the administration has agreed to a condition to protect the Fourth Amendment rights of all Americans and to conform the Chemical Weapons Convention to the United States Constitution. According to this condition, before the U.S. deposits its instrument of ratification, the President must certify to Congress that for any challenge inspection in the United States for which consent has been withheld, the inspection team must first obtain a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing the place to be searched and the persons or things to be seized. For any

routine inspection of a declared facility in the United States that is conducted on an involuntary basis, the inspection team must obtain an administrative search warrant from a United States magistrate judge.

I am now confident that this agreement will ensure that the constitutional rights of U.S. citizens and businesses will be protected under the treaty. I commend Senators HELMS and KYL and the administration for their work on this vitally important condition.

Third, I was troubled by the treaty's impact on the use of non-lethal riot control agents. Since the Chemical Weapons Convention was originally drafted, there has been a great deal of debate in the United States on whether the treaty language would preclude American armed forces from using non-toxic riot control agents. Tear gas and other such chemicals provide the United States military with an invaluable tool when conducting sensitive operations. Tear gas, for example, is an excellent means of rescuing downed pilots, or avoiding unnecessary loss of life when enemy troops and civilians are in the same area.

I am pleased with the agreement that has been reached on this issue. According to a condition the administration has now accepted, the President will certify to Congress that the United States is not restricted by the convention in the use of riot control agents in the following situations: (1) in the conduct of peacetime military operations within an area of ongoing armed conflict when the United States is not a party to the conflict; (2) in consensual peacekeeping operations when the use of force is authorized by the receiving state; and (3) in peacekeeping operations when force is authorized by the Security Council under Chapter VII of the United Nations Charter. The agreement also leaves in place Executive Order 11850 signed by President Ford which cites four cases where the use of riot control agents should be permissible under the Chemical Weapons Convention: avoiding unnecessary loss of life, subduing rioting enemy POWs, protecting supply convoys, and rescuing a downed pilot from enemy troops or a POW from behind enemy lines. I commend the administration for agreeing to this reasonable and necessary condition. It will ensure that the men and women of the United States armed forces have the tools necessary to do their jobs in precarious situations.

While the 28 agreements made did go a long way to improve the Chemical Weapons Convention, I still had one remaining concern, in my view the most important concern, until this morning. That concern relates to Articles X and XI of the convention and the proposition that they might well force the United States to share sensitive information on our chemical weapons defense capabilities and to eliminate our export controls on dangerous chemicals.

Article X of the treaty obliges all parties to provide assistance and protection to any State Party threatened by the potential use of chemical weapons, including information on chemical weapons defense and detection. Article XI of the treaty obliges all parties to freely exchange chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited by the Convention. It forbids parties to the treaty to maintain export controls that would restrict the trade and development of chemicals and chemical technology with other treaty parties.

Ironically, these provisions of the treaty, a treaty designed to eliminate the proliferation of chemical weapons, could in fact promote that very proliferation. If the United States is forced under the treaty to provide this sensitive technology to countries such as Iran, China, or Cuba, those countries could use that information to develop weapons against which we have no ability to defend.

It is my contention that Articles X and XI do more to inhibit the cause of eradicating chemical weapons than they do to promote it. Thus, they comprise a fatal flaw in the Chemical Weapons Convention. And, until today, I was inclined to vote against ratification because of my concerns on Articles X and XI.

I am pleased to say, however, that the distinguished Majority Leader was remarkably successful in his negotiations with the President on this most important aspect of the debate on the treaty. I commend him for his diligence and commend the President for his wisdom in responding to our concerns.

This morning, the President sent Senator LOTT a letter in which he extended a promise that the United States will withdraw from the Convention if Articles X and XI are used by other treaty parties to undermine the intent of the Convention. The specific circumstances under which the President agreed to withdraw from the treaty are as follows: (1) if Article X is used to justify actions that could degrade U.S. defensive capabilities; (2) if Article XI erodes the Australia Group export controls; and (3) if Article XI promotes increased proliferation of chemical weapons.

With this assurance from the President, I am now prepared to support the Chemical Weapons Convention and will vote for its ratification. With the 28 agreements Senator HELMS and Senator KYL were able to negotiate, and with this final commitment from the President, I am comfortable with the treaty. The Convention has been transformed from one doing more harm than good, to one promoting rather than inhibiting the cause of eradicating chemical weapons from the earth.

In closing, Mr. President, let me say that these changes could not have been made without the diligent and good-faith negotiating done by the majority leader, and without the voices raised by thousands upon thousands of Americans who went out of their way to draw attention to the treaty's many flaws. They should be given the lion's share of credit for the conditions and modifications we have made that make the Chemical Weapons Convention a more workable, more responsible treaty.

Mr. BAUCUS. Mr. President, I rise today to express my firm support of the Chemical Weapons Convention Treaty. I have thought long and hard on this issue. And I believe that my colleagues—both for and against this treaty—have shown patience, diligence and understanding during this important debate.

I also believe the time has come for us to lead the civilized world in signing this treaty. And to remember why, we need to look back to our history.

On October 30, 1918, 12 days before the end of the First World War, the 362nd Infantry Division received orders to attack German positions outside the city of Audenarde in France. Many Montanans served in this division.

During this battle, German troops lobbed several gas shells toward the Montana troops. The wind that morning just happened to be blowing to the east, and the gas carried over the American area.

The men of the 362nd fought valiantly that day. And in the end, they overtook the German positions with a minimal loss of life. But they, and hundreds of thousands of other World War I veterans, carried scars in their lungs for the rest of their lives. It made breathing difficult and left many of them invalids.

Chemical weaponry has come a long way in the 79 years since that battle took place. Modern technology has made this type of warfare more devastating and more deadly. It can now kill instantly as well as scar and maim the lungs.

Chemical warfare is an indiscriminate killer. It cannot tell the difference between a soldier and a civilian, a bunker from a subway, or a barracks from a school.

And worst of all, some chemical weapons are relatively easy to create. As we have seen in recent news reports, if the substances used to create chemical weapons are freely available, terrorist groups and cults can make them and use them against civilians.

This, of course, often makes them hard to detect. So the critics of this Convention have a point when they say it will be hard to verify.

But this agreement will make it much easier than it is now for us to

find out when rogue states try to create or stockpile chemical weapons. We will have the right to inspect the factories and defense installations of those we suspect are creating these weapons. And we will be able to block those who do not sign from buying the substances they need to create chemical weapons.

That is why this treaty has wide support. If we choose not to ratify it, we cast ourselves with such countries as Iraq and Libya—one which used chemical weapons against Iran and its own Kurdish citizens, another suspected of clandestine efforts to create a chemical weapons program.

And we make it more likely that some day, another generation of American servicemen and servicewomen will suffer the same kind of outrageous attack that the Montanans in the 362nd went through in 1918. That must not happen. And the Senate must pass this Convention.

If we ratify this treaty now, we allow the United States to participate in its administration from the outset. To fail to ratify the treaty is to lose our seat at the table. I want to make sure that we put American inspectors on the ground to ensure the eventual end of these horrible weapons.

Again, I urge my colleagues to join me in supporting this treaty. And I look forward to the day we remove chemical weapons from the face of the earth.

Mr. MCCONNELL. Mr. President, I rise today to join my colleagues in addressing the issue of ratification of the Chemical Weapons Convention (CWC).

While some who are less familiar with the advice and consent process may regret the pace the Senate has undertaken, I strongly believe it is a point of pride. The Senate, led by Majority Leader LOTT, Senator KYL, Senator HELMS, Senator LUGAR and many others, has painstakingly reviewed the CWC for many months. The 33 conditions which have been the subject of protracted negotiations have created a document which better protects our nation's security interests. I congratulate Senator LOTT and the rest of the participants for their efforts.

Despite the best efforts of all involved I continue to harbor a number of strong reservations about the convention. I am concerned about its verifiability, the impact on U.S. business, the effect on U.S. efforts to eliminate existing chemical weapons stockpiles, and the number of rogue nations which are not party to the CWC.

Former CIA director James Woolsey testified that detection of violations of the CWC is so difficult that we cannot "have high confidence in our ability to detect noncompliance, especially on a small scale." Nowhere is this more evident than Iraq. In a recent column, Charles Krauthammer pointed out that Iraq has been subjected to the most intrusive, comprehensive inspections for weapons of mass destruction ever devised or implemented by an international organization. Yet, we continue to uncover secret sites and weapons and have no confidence we know the extent of Saddam Hussein's lethal stockpile. If we are uncertain under the best of conditions, we should not underestimate the significant risks under adverse circumstances.

Mr. President, my second concern is the unforseen impact inspection requirements might have on U.S. businesses. One estimate puts the number of Kentucky businesses which are likely to be impacted by the CWC at 44. Not all of these companies are large enough to be able to afford the increased costs of additional burdensome regulations. The chemical industry is already one of the most over-regulated industries in America. Currently, the combined costs of EPA, OSHA and other federal regulations on the industry is near $4.9 billion annually. Adding to this incredible financial burden is overkill.

In addition to the costly regulatory burdens CWC asks these companies to withstand, the treaty will require companies to open their books and facilities to foreign inspection teams—creating a Pandora's box of commercial hazards. Former Defense Secretary Donald Rumsfeld points out, despite best efforts its possible, even likely, that inspection teams could come away with classified and proprietary information.

Specifically, the inspection requirements may compel companies to provide proprietary technical data which could be used to considerable financial advantage by competitors. Worse yet, the results might enable adversaries to enhance their chemical weapons capabilities, putting American soldiers and citizens at potential risk. These risks underscore the need to include the imperative protections in Condition 31 enabling the President to ban inspection teams with terrorist track records.

The third issue of concern relates to Condition 27's direct affect on my state and on our ability to dismantle our existing stockpiles. Kentucky is home to the Lexington Bluegrass Army Depot where thousands of chemical munitions are currently stored. The community surrounding this facility is justifiably concerned over the method by which the weapons will be destroyed. The Treaty mandates signatories register specific technical plans for destruction shortly after the instruments of ratification are filed. This may undermine alternatives currently being explored.

Let me explain. Last year, I offered an amendment to the Defense Appropriations Bill which directed the Secretary of Defense to pursue the acquisition of at least two alternative technologies to the current plan of incineration. Condition 27, provides some assurance that the development and use of alternatives to incineration would not be affected by the CWC regime. However, if this agreement between Congress and the Administration is overruled, reversed or challenged by the Organization for the Prohibition of Chemical Weapons, my constituents will be placed at increased risk. I accept the President's written guarantee at this point, but will keep a close watch to assure his commitment is not reversed or revised. I ask unanimous consent that a letter from President Clinton to me on this issue be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. MCCONNELL. Condition 27 also presents another problem. Current law requires the President to destroy the U.S. stockpile by 2004. Condition 27 extends the deadline to 2007. Mr. President I am emphatically opposed to this provision. I do not believe it wise to give the Army, or any party the opportunity to slow down efforts to identify alternative technologies or to delay the destruction process.

The weapons stored in the U.S. need to be dismantled now. They are aging and therefore becoming more unstable every day. As this occurs, safe destruction becomes increasingly difficult and the chance of an accident increases dramatically. I hope the Administration will not seek a delay in the destruction deadline unless it is absolutely necessary in order to undergo the safe and effective elimination of our weapons.

Finally, Mr. President, the fact that many of the nations with either the intent or the means to attack U.S. soldiers and citizens with chemical weapons are not covered by the CWC is deeply troubling. Libya, Syria, Iraq and North Korea are all suspected of possessing chemical weapons and not one is a participant in the CWC. This fact is strong justification for maintaining Condition 30 which compels their participation.

If the U.S. ratifies the CWC the horrors of chemical attack will not magically disappear. Those of us in the United States Senate must remain vigilant in ensuring that America continues to prepare adequate defensive capabilities against potential chemical or biological attack. Incidents such as the sarin gas attack in the Tokyo subway cannot be prevented by this or any other treaty.

The world remains a dangerous place and this treaty will not substantially change that fact. The Secretary of State insists that this Treaty is not about our chemical weapons—it is a means to limit other nations'. The plain fact is it will not constrain one nation from acquiring or using these weapons. Even if we are able to determine that a participating nation is violating the CWC, the means of redress or

sanction available under the treaty are toothless and largely ineffective. The United Nations Security Council must craft penalties which could avoid potential Chinese or Russian vetoes. I am certain this would be a near impossible task.

With these objections stated, it is clear that I do not believe the CWC is a perfect document. In fact, it remains unclear whether the treaty will have any of the positive effects its proponents allege.

Why then do I feel compelled to support U.S. ratification? Quite simply it comes down to one issue—the necessity to sustain the strength and credibility of U.S. leadership. As the principal architect of the CWC, the United States risks our authority and stature should we refuse to ratify the convention. If this treaty is to enjoy any success it will be due to U.S. participation and leadership. As President Bush has stated repeatedly, "it is vitally important for the United States to be out front." I also agree with former Secretary of State James Baker's assertion that failure to ratify the convention "would send a message of American retreat from engagement in the world."

The United States must be in a position to lead, and it must use this leadership to push other nations to follow our example and eliminate their chemical stockpiles. Just this week we heard from a former high ranking North Korean official of that country's significant chemical and nuclear capabilities and willingness to use both. The U.S. must actively work to ensure that the North Korea's of the world recognize the futility in relying on these weapons. The CWC is a modest step on that road, a road which I hope yields success.

EXHIBIT 1

THE WHITE HOUSE,
Washington, March 19, 1997.

DEAR SENATOR MCCONNELL: Thank you for your letter concerning your support for the Chemical Weapons Convention and for the alternative technologies program.

I want to assure you that nothing in the Convention would preclude the consideration of alternative technologies funded by your amendment to the FY 1997 Defense Appropriations bill. Indeed, the Administration has agreed to a condition to the CWC resolution of ratification which makes clear my commitment to exploring alternatives to incineration for the destruction of the U.S. chemical weapons stockpile and clarifies the relationship between the CWC and our chemical weapons demilitarization program. A copy of the condition is attached.

I am gratified that you agree on the importance to U.S. national security of banning the production, possession and use of chemical weapons worldwide. I look forward to your support for Senate ratification of the CWC in the weeks ahead.

Sincerely,

BILL CLINTON.

Ms. MOSELEY-BRAUN. Mr. President, in recent weeks we have heard a great deal about the Chemical Weapons Convention.

We have talked about the risks of information sharing, the reliability of the verification systems, and whether Russia should go first. We have debated the dangers of exchanging inspectors, we have questioned whether outcasts like Iran, Iraq and North Korea should sign this international agreement, and whether anything would change if they did. Fundmentally, we have been considering whether the proposed treaty is a step forward, or whether it is worse than no treaty at all.

Opponents have argued that the treaty is fatally flawed, and that the United States is better off without it. It's true that the Chemical Weapons Convention is not perfect. Chemical weapons are cheap and easy to make, and despite our best efforts, we will never be able to monitor every laboratory, or stop every nation in this world that is driven to make tools of biological warfare.

But this debate is not about whether the treaty is perfect, or whether its provisions must be changed. This debate is about what happens if the United States fails to act.

Every weapon of war is horrible. While the bloodshed, violence and destruction caused by things that kill people cannot be ranked, death by poison gases or viruses is particularly grisly. I am reminded of the words of Erich Maria Remarque in his novel about men lost to poison gas attacks during the Great War in the early part of this century:

> We found one dug-out full of them, with blue heads and black lips. Some . . . took their masks off too soon . . . they swallowed enough to scorch their lungs. Their condition is hopeless; they choke to death with hemorrhages and suffocation—"All Quiet on The Western Front" Erich Maria Remarque.

It was experiences like this that helped to generate worldwide hatred and fear of chemical weapons, and is what led to the Geneva Protocol of 1925.

In the 70 years since that time, negotiations have been conducted, conferences have been held, and agreements have been signed to permanently ban chemical weapons from the earth. It is universally recognized that outlawing chemical and biological weapons and their manufacture—while it might not completely prevent any use in future conflicts—is the right thing to do.

That's why it is incredible to me, less than a week before the ratification deadline, that this treaty has become a point of political division here in the U.S. Senate.

This treaty is the first global arms control agreement to ban an entire class of weapons. Participating states must destroy their chemical weapons within 10 years of the treaty's enactment and pledge to never make them again. The agreement also creates an international organization to monitor compliance, and signatories must exchange data and permit routine inspections of their facilities.

Nations refusing to participate will be barred from purchasing the ingredients necessary to make chemical weapons and many commercial chemical products, and will face heightened scrutiny over their chemical weapons activities. Their chemical and biotechnology industries will face great international trade obstacles.

Opponents of the Chemical Weapons Convention argue that this treaty should not be ratified because countries such as Iraq, Iran and Syria are not signatories. They argue that the treaty is unverifiable, that it is intrusive and damaging to confidential trade information held by the U.S. chemical industry, and that, due to the Clinton administration's refusal to modify article 10 and 11, the United States will be forced to share critical technology with other nations.

I do not subscribe to this interpretation. The sanctions provided by this treaty for nonmembers were designed with the distinct understanding that pariah states were unlikely to join the agreement, and therefore would be isolated and targeted for sanctions. Furthermore, article 10 does not obligate the United States to share chemical defense technologies and equipment with member or nonmember states. Article 10, in fact, provides the United States with the flexibility to determine how and what types of assistance should be provided to signatories. Article 11 will not force private businesses to release proprietary information. The convention legally binds signatories, via article 1, never to engage in any activities prohibited under the convention, greatly decreasing the likelihood that nations would seek to profit by giving secrets to non-signatories.

For the American people, the benefits of the Chemical Weapons Convention are clear. Its provisions will diminish the threat of chemical warfare against our young troops overseas. It will help protect Americans at home from terrorist attacks like the kind that occurred in the Tokyo subway. And it gives us new tools to help us track down and punish nations that violate this treaty.

The amount of good that this treaty can accomplish has been recognized by the rest of the civilized world. One hundred and sixty-four nations have signed, and seventy-four nations have ratified this agreement. The treaty, which was negotiated by the Republican administrations of Reagan and Bush, has been endorsed by military leaders like General Powell and General Schwartzkopf. It's supported by the chemical manufacturers, and most significantly, it is supported by the American people.

The Senate has less than 1 week, however, to ratify this treaty. If we

miss the April 29 deadline, the world will move ahead without us, and the United States will lose a critical opportunity to take a stand against the worldwide proliferation of chemical weapons. America will lose its seat at the table in the international enforcement process, and American inspectors will be barred from examining foreign facilities. Our chemical industry will lose hundreds of millions of dollars per year as a result of the treaty's trade restrictions. And we will sit on the sidelines with outlaw nations like Libya, North Korea, Iraq, and Iran.

The United States is not an outlaw nation, and should not be considered one because of our failure to act. We cannot stop these deadly weapons alone, and the world cannot stop these weapons without us. As President Clinton said in his State of the Union Address, "We must be shapers of events, not observers." If we want to continue our leadership role into the next century, then it is time for the United States to be leagued with the rest of the world and put an end to these weapons of death.

We have a clear choice. We can take the path of political partisanship, and stand in isolation. Or we can set aside discord, take responsibility for our children's future, and ratify this agreement.

This is the decision that the Senate must make. In the 100 years since the Hague Conventions, a historic opportunity is within reach to ban chemical weapons forever. It is time for the Senate to complete the job and ratify the Chemical Weapons Convention.

Ms. MIKULSKI. Mr. President, I support the ratification of the Chemical Weapons Convention. This international treaty is our best hope to end the use of lethal chemical weapons. It will protect Americans by making it harder for terrorists to produce chemical weapons and it will protect our soldiers on the battlefield. This treaty will make America and the world more secure.

The Chemical Weapons Convention bans the development, production, stockpiling, and use of chemicals as weapons. Each and every nation that signs this treaty becomes an ally in the fight against chemical weapons used by terrorists or by outlaw states. If we don't ratify this treaty, America will join countries like Libya and Iraq who refuse to join the worldwide effort to end the use of chemical weapons. I can't speak for my colleagues, but I know that this Senator does not want the United States to be aligned with those terrorist states.

The Chemical Weapons Convention is not a liberal or a conservative document. It is not a Democratic or a Republican document. It was negotiated by the Reagan and Bush administrations and it is supported by the Clinton administration. It is in the tradition of a nonpartisan foreign policy.

The Chemical Weapons Convention was made in America. It is inconceivable that we—the world's only superpower—would refuse to ratify a Convention that we were instrumental in drafting.

Of course no treaty can ever eliminate every threat. That is why the United States must continue to maintain our strong chemical weapons defense program. At the Aberdeen Proving Ground in Maryland, scientists and technicians are developing better ways to protect our troops from the effects of chemical weapons. This important work must continue.

In addition, our intelligence agencies, like the National Security Agency, must continue to provide the kind of information that prevents the use of chemical weapons. The National Security Agency is listening in on the international criminals and terrorists as they seek to buy chemicals and produce weapons. The Chemical Weapons Convention will aid these efforts by making it harder for terrorists to get chemicals that could be turned against Americans.

America has always led the effort to end the use of chemical weapons—and the convention will ensure that other countries follow our lead. We have already decided not to use chemical weapons and we have started to dismantle our chemical stockpile.

Maryland is one of seven States that stores chemical weapons left over from the First and Second World Wars. For many years, we have lived with the threat of an accident. We are only now preparing to neutralize the chemical stockpile that is stored in Maryland. We in Maryland know first-hand the dangers these chemical weapons pose to military personnel and civilians. America's priority must be to safely dispose of these lethal chemicals—not to produce them.

Mr. President, The Chemical Weapons Convention will make it harder for thugs and rogue nations to make and use chemical weapons. I urge my colleagues to join me in voting for its ratification.

Ms. SNOWE. Mr. President, in my view there is no greater threat to our nation's security than the proliferation of weapons of mass destruction. Among these is the scourge of chemical weapons which have been unleashed in this century with such horrifying effect in the trenches of the First World War, in the villages of Iraq a decade ago, and more recently in the Tokyo subway.

In 1985 the United States took a bold unilateral decision to destroy our chemical weapons stockpiles because they serve no military purpose. And in 1990 the United States negotiated a bilateral chemical weapons destruction agreement with the Soviet Union in an effort to begin the process of reducing that country's stockpiles, the largest in the world. The leadership of the United States through the years has been crucial in forging the broad international consensus which produced the Chemical Weapons Convention. The whole world is watching us closely today to see whether or not the United States is going to continue its leadership role on this critical issue.

The United States must not retreat from more than a decade of leadership on controlling chemical weapons. We must ratify the Chemical Weapons Convention before it comes into force on April 29—not just to maintain our leadership on this issue, but because it is in our best interests to do so.

The issue is not whether the Convention will completely eliminate the threat of chemical weapons. There is no magic wand to do that. However, what the Chemical Weapons Convention will do is nevertheless substantial. It will establish—for the first time—an international standard against the production and use of chemical weapons. It will provide us with significant additional monitoring and inspection tools to detect chemical weapons activities. And it will impose trade restrictions that will make it more difficult for "rogue" states and terrorist organizations to start or continue chemical weapons programs.

Opponents of the Convention argue that it is not adequately verifiable, although many of those same critics argue at the same time that the treaty is too intrusive. The fact is that the Convention includes the most extensive monitoring and inspection regime of any arms control treaty to date. The U.S. chemical industry—which will be the target of most of the monitoring and inspection under the Convention—helped write these provisions and is comfortable with them.

The U.S. intelligence community believes that the Convention will significantly enhance its current ability to detect suspicious patterns of chemical activity in other countries. I am particularly pleased with the Condition #5, which has been agreed to, that protects U.S. intelligence information that may be shared with the Organization for the Prohibition of Chemical Weapons. It reflects the legislation I have introduced to protect U.S. intelligence which is shared with international organizations.

The trade restrictions imposed by the Convention represent another key element in controlling the proliferation of chemical weapons. Building on the existing trade restrictions in chemicals under the informal Australia Group, the Convention limits trade in the most likely chemicals to be used in weapons production—Schedule I chemicals—to trade among countries that have already ratified it. The same restrictions will apply after three years to Schedule II "dual-use" chemicals which have both commercial and military applications.

Therefore, if we do not ratify, we hurt our own chemical industry which will be excluded from commerce in Schedule I chemicals with some of our principal trading partners, including the United Kingdom, France, Germany, Japan, and Canada. The economic loss to the United States is estimated to be $600 million annually.

Opponents of the Convention also argue that it is contrary to our national security interests because countries like Iraq and North Korea will continue their chemical weapons programs while we destroy our own stockpiles. But the Convention will make it harder for these countries to obtain critical chemical ingredients for their weapons programs. And, by outlawing the production of chemical weapons for the first time, the Convention will allow the international community to take collective action to isolate "rogue" states intent on developing these weapons.

The Pentagon's top military leaders have all testified that chemical weapons are not needed to deter other countries from using these weapons against the U.S. or our armed forces. In fact, chemical weapons serve no useful military purpose as a method of warfare. America's ability to inflict overwhelming destruction, without resorting to chemical warfare, serves as a sufficient deterrent to the use of chemical weapons against our armed forces. I agree strongly with Condition #11, which has already been agreed to, that requires the United States to maintain a robust program of chemical and biological defenses to ensure that our forces are provided with maximum protection in the event such weapons are ever used against U.S. forces. Such a policy is only matter of prudence and common sense.

The resolution of ratification before the Senate today sets out further conditions that address widely-shared concerns about the Chemical Weapons Convention. For instance, conditions will ensure the primacy of the U.S. Constitution, limit U.S. financial obligations under the Convention, ensure appropriate cost-sharing arrangements, and require consultation with this body in cases of noncompliance with the treaty. By clarifying and reinforcing the Senate's views on these and other important issues, the conditions constitute a useful complement to the Chemical Weapons Convention.

Mr. President, it is important to note that this Convention has a history of bipartisan support. Negotiations began under the Reagan Administration and were concluded by the Bush Administration. Former President George Bush has said, and I quote, "This Convention clearly serves the best interests of the United States in a world in which the proliferation and use of chemical weapons is a real and growing threat . . . United States leadership is required once again to bring this historic agreement into force."

A total of 162 countries have now signed the Chemical Weapons Convention and 74 countries have ratified it. Russia, China and Iran—all with known chemical weapons programs—have signed the Convention, but it is unlikely that these countries will ratify it if the U.S. does not do so first.

Mr. President, American leadership is needed once again. The U.S. must be among the original ratifying states in order to play a central role in setting up the new Organization for the Prohibition of Chemical Weapons and to participate fully in the Convention's monitoring, inspection, and trade control activities. I urge my colleagues to support the resolution of ratification for the Chemical Weapons Convention.

Mrs. MURRAY. Mr President, I am pleased that the United States Senate has finally turned its attention to the Chemical Weapons Convention. Before this body today sits the work of President Reagan, President Bush and now President Clinton. The CWC will place a global ban on the manufacture, stockpiling and use of chemical weapons by its signatories. Along with protocols for inspections and sanctions against countries that do not abide by the CWC, it contains a specific timetable for the destruction of existing chemical weapons and production facilities.

The United States provided valuable leadership for many years in the effort to outlaw chemical weapons and their use. Our government was the driving force behind the negotiations that produced the Chemical Weapons Convention. The CWC will go into effect next week with or without U.S. participation. Failure to ratify the CWC would be a monumental error for the United States; a symbolic retreat from our traditional role in the world that will likely impede our efforts to further eliminate and combat proliferation of weapons of mass destruction.

I do strongly support the immediate ratification of the Chemical Weapons Convention. I want to add my personal thanks to my many colleagues who have worked so hard to bring the articles of ratification to the Senate floor. Senator BIDEN and Senator LUGAR have both been champions in this effort. I have great admiration and respect for both of these Senators and I know many thousands of my constituents also appreciate their leadership on the CWC.

As a Member of the Senate Committee on Veterans Affairs, I have been particularly impressed by the support given to the CWC by numerous veterans service organizations. My own state has more than 700,000 veterans and thousands of additional active duty personnel stationed in every corner of my state. The following veterans organization have all called upon the Senate to ratify the CWC; the Veterans of Foreign Wars, the Vietnam Veterans of America, the Reserve Officers Association of the United States, the American Ex-Prisoners of War and the Jewish War Veterans of the USA. The National Gulf War Resource Center, a coalition of two dozen Gulf War veterans organizations has also publicly endorsed the CWC.

Such distinguished senior US military commanders as General Norman Schwarzkopf, former Chairmen of the Joint Chiefs of Staff Generals John M. Shalikashvili and Colin Powell, former Chief of Naval Operations Admiral Elmo Zumwalt, and former National Security Adviser General Brent Scowcroft have all publicly called for the ratification of the CWC. Colin Powell appeared before the Veterans Affairs Committee last week; he gave the committee his unequivocal support for the CWC. General Powell stated that the treaty will lessen the likelihood that U.S. troops will be safer from chemical attack in the future. Given the problems many of our Gulf War veterans are suffering that many attribute to exposure to chemical weapons, I believe the Senate should give General Powell's comments in support of the CWC special consideration.

Also of great importance to me in considering the merits of the CWC is the strong support of the chemical industry, including both small and large businesses. It is noteworthy that our business community provided advice to the Reagan and Bush administrations on the treaty provisions affecting this industry.

If the United States does not ratify the Chemical Weapons Convention it will not have access to the Treaty's tools to help detect rogue states and terrorists who seek to acquire chemical weapons. The United States will not be allowed to participate in the Organization for the Prohibition of Chemical Weapons (OPCW), the governing body deciding the terms for the implementation of the Treaty. Therefore, Americans will not be able to serve on inspection teams or influence amendments, and Americans now serving as head of administration, head of industrial inspections, and head of security will be replaced by nationals from countries that have ratified the CWC. Chemical proliferation and terrorism are undoubtedly problems the United States can fight more effectively within the framework of global cooperation.

The Chemical Manufacturing Association has stated that the CWC "does not trump US export control laws." Instead, the Treaty will expand and improve the effectiveness of non-proliferation by instituting a strong system of multilateral export controls. No information will be disclosed regarding imports, exports or domestic shipments. The CWC will affect approximately 2,000 companies, not 8,000 as the

Treaty's opponents hold. About 1,800 of those 2,000 companies will do nothing more than check a box regarding the range of Discrete Organic Chemicals they produce, without specifying the nature of these chemicals. Of the some 140 companies most likely to be subjected to routine inspections, a large proportion are CMA members, who assisted in writing the provisions of the Treaty. Regardless, it is anticipated that any challenge inspections will more than likely involve military, rather than commercial facilities. Thus, we should not concern ourselves with a potential negative impact of the CWC on the industry, because clearly this is not the case. On the contrary, if the U.S. Senate chooses not to ratify the Chemical Weapons Convention, American chemical companies risk losing as much as $600 million a year in sales and many well-paying jobs when the mandatory trade sanctions against non-parties are enforced.

Critics insist that the CWC will be ineffective because rogue states suspected of possessing or attempting to acquire chemical weapons, such as Syria, Iraq, North Korea and Libya, have not joined the convention. Accordingly, they argue that the United States should hold up ratification until these states join. The reality is that only about 20 states are believed to have or to be seeking a chemical weapons program, more than two-thirds of which have already signed the CWC. For the past 40 years, the United States has led nonproliferation regimes that have established accepted norms of international behavior. Failing to ratify the convention will not persuade the rogue states to join the CWC. Rather, it will legitimize their action and hurt US credibility in the international community. The Treaty ensures that non-party states are isolated and makes it extremely difficult for them to pursue their nefarious objectives.

I urge my Senate colleagues to reflect on the measure of American leadership and the indispensability of our nation on nonproliferation issues and to vote for the Chemical Weapons Convention. This Treaty makes sense on political, legal and moral grounds. As officials of both Republican and Democratic administrations assert, the Chemical Weapons Convention will ensure that Americans live in a safer America and a safer world.

Mr. BOND. Mr. President I will vote against ratification of the Chemical Warfare Convention. I came to this decision, not because I am against doing away with chemical weapons, we all are. I will vote against ratification because amendments which I believe were critical to ensuring our safety and security were stricken rendering the convention more dangerous to our well being than one which would include those conditions, even if it means having to renegotiate the convention. Of the outstanding amendments which were debated through out the day today, I believe those covering Russian ratification and their compliance with previous treaties, the rejection of inspectors or inspections by states with a history of violating non-proliferation treaties or which have been designated by our State Department as sporting terrorism, striking article 10 of the treaty and amending article 11, and having our intelligence agencies certify that the treaty would be credibly verifiable were critical to making the treaty worthwhile.

The fact that the President suggested we could withdraw from the convention if there were a compelling reason to do so, was a placebo which carried little viable meaning. I believe that it would not only be more difficult to withdraw from the convention once we ratify it, it would be much more dangerous to world stability if we were to withdraw after obligating ourselves to a flawed treaty. And so, I must, in good conscience, vote not to ratify.

Mr. HATCH. Mr. President, the first thing I wish to express is my gratitude to the Chairman of the Foreign Relations Committee and the Majority Leader for the work they have done in the final weeks to improve this resolution of ratification.

The Chemical Weapons Convention before us is significantly better than what we faced last year. In addition, I wish to compliment both the Chairman and the Ranking Member of the Foreign Relations Committee for holding numerous hearings during the past month and for the way they have led the debate over the past two days. The duty of this body to advise and consent has never been more honorably met.

This treaty, with the resolution of ratification, while now an acceptable treaty, is not the panacea for chemical weapons that some of the more adamant proponents have implied or suggested. It will not, in and of itself, spare our grandchildren from the horrors of chemical warfare. It will not, in and of itself, protect our citizens from terrorists intent on using chemical weapons.

This Convention will not significantly reduce the threat of terrorism, Mr. President. Now that this debate is almost concluded, it would be of great benefit to the future of this agreement that everyone be realistic about this. The Administration and other proponents of this agreement recognized this when they stated in the resolution of ratification, condition 19 that: "The Senate finds that without regard to whether the Convention enters into force, terrorists will likely view chemical weapons as a means to gain greater publicity and instill widespread fear; and the March 1995 Tokyo subway attack by the Aum Shinrikyo would not have been prevented by the Convention."

Mr. President, I am greatly concerned about future terrorist threats to the citizens of this country, and I urge those who have suggested that this Convention will curb that threat to decease from such counterproductive rhetoric that could disastrously mislead us about future threats.

In addition, I must note to the ardent proponents of the CWC that a number of nations will remain outside of this regime, and some of them have policies inimical to this nation's welfare and security. I have read the Convention, and I wish to state that I read Article XI, section (d) to mean that the U.S. is free to pursue any action—unilaterally or multilaterally—against nations having chemical weapons. Furthermore, I will insist on clarification indicating that current trade sanctions promoting U.S. national security, and supported by this body as well the executive, will not be infringed by this Treaty.

The benefits of this Treaty will not nearly approach the rhetoric of some of its proponents. In my opinion, overblown rhetoric enhanced the possibility that this Treaty could have failed, as some of us studied the document and realized the great gap between the rhetoric and reality.

The current resolution of ratification helps to close that gap. The conditions included in the resolution preserve the Senate's constitutional role in treaty-making, including approval of amendments to the CWC. Agreed conditions established standards for U.S. intelligence sharing, including requiring reports on such sharing. They limit the sharing of defensive capabilities under Article X. They clarify our position on the use of riot control agents in wartime circumstances, preserving for us that option along the lines originally intended by our negotiators under President Reagan. They require the President to report regularly on the threat of chemical weapons.

Finally—and this is extremely important, Mr. President—the resolution of ratification requires criminal search warrants for challenge inspections against non-complying parties.

I stress again, Mr. President, my gratitude to those, on both sides of the aisle as well as in the Clinton Administration, who negotiated this resolution.

The letter the Majority Leader has obtained from President Clinton also helps close the gap between rhetoric and reality. The President recognizes, with this letter, that the Treaty may not guarantee the cessation of proliferation of these monstrous weapons and their precursors. He recognizes that, despite the goals of this document, our defenses against their possible use on our troops should not wane. He recognizes that we have a regime—the Australia Group—in place that has addressed the problem of illicit trade in chemicals and that that regime should not go by the wayside.

With this letter, the President recognizes that if this Treaty is seen to be failing, we can and will exercise Article XVI, which defines how a State Party may withdraw from the CWC.

Despite these improvements and assurances, Mr. President, I know that a number of thoughtful colleagues continue to have reservations about the effectiveness of this Treaty. And I wish to say that I respect their decisions, and I object to certain exceptional notions heard during the debate that opponents of this Treaty object because they are against all arms control treaties. I don't believe this to be the case at all. This Treaty has many practical limitations, and I believe that we should not impugn the motives of individuals who, at the end of the day, have great reservations over its benefits.

I have supported many arms control agreements myself, Mr. President, but always after careful consideration of the strategic value as well as practical consequences of making so grave a commitment. And I must say that it has never been more difficult for me to determine the net worth of an arms control agreement as it has been for me regarding the Chemical Weapons Convention before us today.

I have concluded that this treaty can advance our security, but only if Administration matches the rhetoric of arms control with the muscle of political will. Because, Mr. President, international norms without political will do not become norms.

The benefits of treaties are measured on achievements, not intentions. If intentions were all that mattered, all treaties would be beneficial prima facie. By this standard, the Kellogg-Briand Treaty, which outlawed war, or the 1925 Geneva Convention Against the Use of Chemical Weapons, would have been rousing successes. History has proven that they were not. But, the success of treaties is measured in reality, not rhetoric. And the benefits of this Treaty are measured on a narrow margin.

It is after a careful parsing of this margin, and much reflection, that I have determined that I will vote for the Chemical Weapons Convention. But I do so with the expectation that this Chief Executive, and subsequent ones, must be wholly dedicated to implementing this agreement in a way that advances U.S. security interests and protects U.S. domestic interests.

Mr. President, this Treaty will give us some tools—inspections and other data collections—that will enhance our knowledge of the threat of chemical weapons. The information will not be comprehensive; it will not apply universally. But, if in collecting this information we reduce the possibility that our troops will face a chemical threat, then this is a tangible, defensible goal, for which anyone could support this Treaty.

The United States has been a principal negotiator of this agreement, through Republican and Democratic administrations. To abandon it now would be to abdicate U.S. leadership. We are now burdened to support it and implement it. The goals are admirable. The bridge to achieving those goals, to bridging the gap between the idealistic rhetoric and the vexing reality, will be difficult. On that bridge, Mr. President, will ride the credibility of the United States, and, I believe, the credibility of future arms control. Past administrations have led in the establishment of this international norm. Future administrations will need to verify its legitimacy. President Clinton must carry through on his pledge for strict international compliance and for vigilence regarding threats by terrorists or renegade groups.

Over 70 nations have ratified this Convention. Of course, we decided to unilaterally destroy our stockpile more than a decade ago, and we are proceeding as expeditiously as possible, restrained only by prudence regarding safety and the environment. We've known all along that our unilateral destruction plan was not contingent on the outcome of this debate. We determined these weapons were not militarily useful to us; our defense establishment can preserve and promote our national security without them. But as of the moment that our instrument of ratification is deposited, we will be the first of the countries with a large stockpile to ratify. The United States is leading. Will other nations follow?

Mr. President, I wish to say a few words about Russia. With the consent of the Senate today, the Administration will be able to deposit the instrument of ratification before the April 29 deadline, allowing U.S. participation in the formation of the Organization for the Prohibition of Chemical Weapons. The U.S. and Russia are the only powers that voluntarily declare they have chemical weapons. On two occasions the Russians have joined us—in the 1990 Bilateral Destruction Agreement and under the 1989 Wyoming Memorandum—in bilateral commitments to expose and destroy our stockpiles. As those who have studied this question know, the record of Russian compliance is not good. As those who read the papers and get the briefings know, the Russian chemical arms capability is not stagnant.

President Yeltsin has indicated that he wishes the Russian Duma to approve ratification before the April 29 deadline. I hope they do. The Russians need to join and participate in the initial construction of this regime. And we need to begin to inspect and expose all of our stockpiles. If the Russians are not part of this Treaty, Mr. President, this regime may be stillborn, because the largest stockpile of chemical weapons in the world exists in the Russian Federation. I hope we can work with the Russians as partners beginning next week.

If the Senate gives its consent today, Mr. President, next week the hard work will begin. The success or failure of this regime will not be a function of depositing the instrument of ratification. It will be a function of implementing the agreement. I am supporting this Convention today because I think it can only succeed with U.S. participation—and leadership. It can fail for many reasons, including noncompliance or nonparticipation by nations around the world. But it won't succeed without U.S. leadership.

Leadership will require more than idealistic promises. We must abandon the rhetoric of unattainable promises and commit to the reality of national interest. I fear the Administration will have a lot of work building the bridge between the rhetoric and reality. On that bridge lies the future of this Convention and the future of arms control.

Mr. HELMS. Mr. President, let me state the order of distinguished speakers on this side of the aisle. I am going to start with the most distinguished of all. The President pro tempore of the Senate, Senator THURMOND, will have 5 minutes; followed by Senator HUTCHISON of Texas, for 5 minutes; Senator HUTCHINSON of Arkansas to follow with 2 minutes; Senator BROWNBACK, for 1 minute; Senator KYL, for 1 minute; Senator ASHCROFT, for 2 minutes. They will be recognized in that order.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I want to recognize the work done on this treaty by the floor managers—both in opposition and in support of this very important international treaty. Both sides have made laudable arguments in supporting their different positions. This subject is one of great importance. I want to especially commend our able majority leader for the long hours he spent working with both floor managers and the administration.

Mr. President, during the Senate Armed Services Committee's review of the national security implications of the Chemical Weapons Convention, I raised concerns about the ability of the U.S. to comply with the treaty obligation to destroy our chemical stockpile within the timeframe stipulated, the universality of the treaty, the verifiability of the treaty, and the administration's interpretation of the provision on the defensive use of riot control agents by U.S. forces.

During the committee's hearings on the treaty in August 1994, I took no position on this treaty. I made it clear that the administration would have to convince me that it was in the national security interests of the United States.

I have concerns about statements made over the past few weeks, by the

President and several administration representatives, that if the United States does not ratify the Chemical Weapons Convention, that we would be aligning ourselves on the side of rogue nations, like Iraq and Libya, and against our allies.

Mr. President, in 1985 the Congress legislated the requirement for the United States to destroy its chemical stockpile, and has reaffirmed that decision every year since that time. The Senate agreed to take actions against Iraq for attacking its neighbor, and against Libya for terrorist actions which resulted in the death of American citizens. How can the President, the Secretary of State and other administration representatives liken a decision by the Senate, in its performance of its constitutional duties to provide advice and consent to international treaties, to be aligning the United States with rogue nations? Regardless of the outcome of the CWC, the United States will continue to destroy its chemical stockpiles.

Last Sunday, the Secretary of Defense talked about his recent visit to South Korea and the discussions he had about the threat posed to U.S. Forces by the chemical weapons in North Korea. He also mentioned General Tilelli's support for ratification of the CWC because it would reduce the chemical weapons threat faced by his troops in South Korea.

Mr. President, North Korea has not signed the CWC. As I read the treaty, none of the provisions will apply to nations that have not signed and ratified it. Only trade sanctions will apply to countries that have not signed it. United States ratification of the CWC will not minimize the North Korean chemical weapons threat which face our United States forces.

Mr. President, I cannot support the Chemical Weapons Convention. I appreciate the efforts made by the White House to work out conditions to the resolution of ratification that respond to concerns raised about the treaty made by Members of the Senate. However, I do not believe they go far enough. I remain concerned about the ability of the intelligence community to verify compliance with the treaty. Rogue nations which pose a military and terrorist threat to the United States have not signed the treaty, and most likely will not sign it. I am also concerned about the potential compromise of U.S. defensive capability through potential transfers of chemical defensive protective equipment, material or information under article X and article XI.

It is for these reasons that I cannot vote for this treaty.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas for 5 minutes.

Mrs. HUTCHISON. Mr. President, I respect everyone who is going to vote today for the position that they are taking because I know that it is sincere. I respect the people who have come out for this convention treaty—the former Presidents—and I respect the people who have come out against the treaty, the former Secretaries of Defense.

It comes down, for me, to a basic question, and that is: Do we believe that international conventions and conferences keep us safe at night? Or do we believe a strong national defense is what keeps us safe at night and what has served us so well for this century? Mr. President, I think it is a commitment to a strong national defense, and I have decided, reluctantly, to vote against this convention treaty because I believe this does more to harm our strength and our national defense than it does to help it.

Mr. President, we have seen our allies transfer nuclear technology that can be made into weapons to rogue nations. So now we have a treaty that will allow people to come into our chemical plants—not chemical plants that make weapons, because we are not going to make weapons, but into our chemical plants that might be doing research on how to defend against chemical weapons. That technology can then be transferred to the nations who would use the chemical weapons.

It seems to me that we are unilaterally disarming ourselves, Mr. President, with a treaty that would say we must allow international groups to come into plants that use chemicals, whether it is to make fertilizer or disinfectant, or defenses to chemical weapons, any of those things. An international group will be able to come in and, I think, violate our constitutional right against search and seizure. I am concerned that we are hurting our ability to defend our country.

So, Mr. President, I think we have a choice here between America being the leader and undercutting our defenses, or standing on principle and protecting our security. Mr. President, I just don't think there is a choice. We must stand on principle. So that if our young men and women in the field are attacked by chemical weapons by those who will not sign this treaty, we will surely have the defenses to protect them; and so that we will keep the ability in our country to have the strength to fight the chemical weapons that will be produced, that we know are being produced right now, by nations who will not abide by this treaty.

So I do not buy the argument that we are better off with this treaty than without it. In fact, I think we are hurting our ability to combat the rogue nations, the terrorist nations with whom we are dealing all over the world, and I could not vote in good conscience to do that. Thank you.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, I want to especially applaud this evening the Senator from North Carolina and the Senator from Arizona for their courageous opposition to this treaty. I also want to recognize the good and patriotic Americans and Senators who have differed on this treaty and have come down to different places on how they are going to vote.

But this treaty is not about who is committed to and who believes in the elimination of chemical warfare in this world. I believe all of us are equally committed to that goal.

I rise in opposition to the CWC because I simply believe that it is a flawed treaty in which we claim to verify the unverifiable, we are ratifying the unenforceable, and we are trusting the untrustworthy. We are binding ourselves and our friends, while those that we should be most concerned about go unrestrained and undeterred. When addressing the ratification of a treaty, we in this body are executing one of our most solemn duties. When addressing our Nation's security and when addressing our Nation's sovereignty, our watch words should be "prudence" and "caution."

I believe that prudence and caution call out for a "no" vote. By ratifying this treaty, we spurn the sage advice of former Secretaries of Defense. And I close with the words of one of those Secretaries, Secretary Cheney, who wrote that "This accord is worse than no treaty at all."

So, while I recognize and applaud the sincerity and the passion with which the advocates of this treaty have spoken and how they articulated their position, I believe firmly that it is not in the interest of the sovereignty and the security of the United States. And I urge a "no" vote on the treaty ratification.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas for 1 minute.

Mr. BROWNBACK. Thank you very much, Mr. President. I appreciate that.

Mr. President, I join with other Senators noting how extremely difficult and important this decision is to vote for treaty ratification. I have taken it very seriously, as well as everybody else. I have read the entire treaty. I sat down and thought it through. I have talked with people. I have talked with President Bush, Bob Dole, Colin Powell, Casper Weinberger, James Schlesinger, Richard Perle, and my 9-year-old son, too, who I think has a stake in this as well.

I find it a terribly tough call to make on this treaty; a tough one to be able to decide what is in the best interest and ultimately what will get the fewest chemical weapons used in this world. That to me is the real litmus test issue. What is going to make the world safer is when we are going to have

fewer chemical weapons used in the world.

I would like to bare to the body that I chair the Middle East Subcommittee of the Foreign Relations Committee. We held a hearing just last week on U.S. policy toward Iran. Our policy has failed to stop them from receiving weapons of mass destruction, particularly chemical weapons. The Iranians are receiving precursor chemical weapons from the Chinese.

May I have an additional minute and a half?

Mr. HELMS. Please. Yes.

Mr. BROWNBACK. I thank the chairman very much.

As I mentioned in our hearing last week, it was noted and pointed out that the Iranians have received chemical weapons, precursor chemical weapons, from the Chinese and from other sources.

I have reluctantly but clearly concluded that Iran would be more likely to obtain and use chemical weapons if we enter into this Chemical Weapons Convention with article X in place, which is currently how it sits; that they will be more likely to get and use chemical weapons, weapons of mass destruction. Iran is our erstwhile terrorist enemy.

I spoke to Colin Powell. He noted that chemical weapons today are the weapons of choice, primarily, for terrorists. These are primarily weapons used by terrorists. That certainly fits the Iranians.

So that is why I have, unfortunately, reluctantly yet clearly, decided that with article X in it and with the likelihood of that being used by the Iranians, that this treaty would actually cause more chemical weapons to be used by people that we don't want; by terrorist regimes such as the Iranians. Therefore, I will have to vote against this treaty.

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

Mr. ASHCROFT. Mr. President, I thank you for this opportunity to make some comments in regard to this serious matter.

None of us has any affection for chemical weapons. Each of us hates chemical weapons. We would all like to see chemical weapons abolished. None of us would like to see chemical weapons used. We would all like to believe the statements of prominent experts that have been made about this treaty. We would all like to embrace the assurances of the President that, if something goes wrong, the treaty could be something easily walked away from.

But, in spite of all our aspirations, in spite of all of our desires, and in spite of all our hopes, there is one reality which will persist; and that reality is the language of the treaty itself. Long after the assurances have stopped echoing through this Chamber, long after the President has left office, who is trying to assuage the fears of those who have misgivings about this treaty, the black and white letters of the treaty itself will be the controlling components of what happens. And the thing that gives me great pause is that the treaty will remain.

There are the requirements, particularly in articles X and XI of the treaty, which require us to share technology, to share information, and to share, in particular, the defensive technology of chemical weaponry. There is an anomaly in chemical weaponry which is challenging. It is that when you provide the defensive technology for chemical weapons, you are providing one of the essential components of delivering chemical weapons. No one can deliver chemical weapons, unless it is launched by a missile, without having to have all the technologies of how to defend against the chemistry of the weapons.

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

Mr. ASHCROFT. I ask for 30 additional seconds.

If a rogue state wants to deliver chemical weapons, one of the things they need to do is to acquire the defensive technology to defend against them and to protect their own soldiers in delivery. That seems to me one of the substantial problems contained in articles X and XI. The risks far exceed the benefits.

As a result, I think it is ill-advised for us to accept assurances which would mislead us. We need to read the treaty, and the treaty is not one which merits our approval.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona for 1 minute.

Mr. KYL. Mr. President, let me begin by thanking Senator HELMS and Senator BIDEN, the floor managers of this treaty, for the work they did in bringing it before us.

Mr. President, I share the hope of the supporters of this treaty that it will help end the proliferation of chemical weapons. I believe, however, that history will record this treaty as one of the most well-intentioned yet least effective in our history. My hope is that we will not relax our efforts in other ways to reduce this threat, that we will not be lulled into a sense of security when it is ratified.

With the protections in the original resolution of ratification, I voted for the treaty. But the protections having been stricken, I must vote "no."

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, Senators will be glad to hear this.

I ask for the yeas and nays on the final vote in the Senate.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time remains to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 8½ minutes.

Mr. LEAHY. Mr. President, I will not use all of that time, only to say this. We will advise and consent so the President can ratify this treaty. I truly believe we will. It will show the moral leadership that the Senate should show and that the United States should show. We will act as the conscience of this Nation, and we will advise and consent to this treaty. We will show the moral leadership because we began this by saying we would act unilaterally, if need be, renouncing our own use of chemical weapons with or without a treaty. That was true leadership.

Not all countries are going to join with us. But most did join with us on this, and we should be proud of that leadership that brought them together. We will never have all of the countries with us, but we know that it is in the best interests of the United States to do this.

I suggest, after we do this, Mr. President, that we should again look at the question of antipersonnel landmines and show the same moral leadership to get countries to join with us—not all countries will—to ban antipersonnel landmines which kill and injure far more people than chemical weapons.

Mr. President, I will vote for advice and consent of this treaty so the President can ratify it.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I, on behalf of the leader's time and any other time that may be assigned to me, yield the remainder of time.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 74, nays 26, as follows:

[Rollcall Vote No. 51 Ex.]

YEAS—74

Abraham	D'Amato	Hagel
Akaka	Daschle	Harkin
Baucus	DeWine	Hatch
Biden	Dodd	Hollings
Bingaman	Domenici	Inouye
Boxer	Dorgan	Jeffords
Breaux	Durbin	Johnson
Bryan	Enzi	Kennedy
Bumpers	Feingold	Kerrey
Byrd	Feinstein	Kerry
Chafee	Ford	Kohl
Cleland	Frist	Landrieu
Coats	Glenn	Lautenberg
Cochran	Gorton	Leahy
Collins	Graham	Levin
Conrad	Gregg	Lieberman

Lott	Reed	Snowe
Lugar	Reid	Specter
McCain	Robb	Stevens
McConnell	Roberts	Thomas
Mikulski	Rockefeller	Torricelli
Moseley-Braun	Roth	Warner
Moynihan	Santorum	Wellstone
Murkowski	Sarbanes	Wyden
Murray	Smith (OR)	

NAYS—26

Allard	Faircloth	Kyl
Ashcroft	Gramm	Mack
Bennett	Grams	Nickles
Bond	Grassley	Sessions
Brownback	Helms	Shelby
Burns	Hutchinson	Smith (NH)
Campbell	Hutchison	Thompson
Coverdell	Inhofe	Thurmond
Craig	Kempthorne	

The VICE PRESIDENT. On this vote, the yeas are 74, the nays are 26. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification, as amended, was agreed to, as follows:

Resolved, (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the Chemical Weapons Convention (as defined in section 3 of this resolution), subject to the conditions in section 2.

SECTION 2. CONDITIONS.

The Senate's advice and consent to the ratification of the Chemical Weapons Convention is subject to the following conditions, which shall be binding upon the President:

(1) EFFECT OF ARTICLE XXII.—Upon the deposit of the United States instrument of ratification, the President shall certify to the Congress that the United States has informed all other States Parties to the Convention that the Senate reserves the right, pursuant to the Constitution of the United States, to give its advice and consent to ratification of the Convention subject to reservations, notwithstanding Article XXII of the Convention.

(2) FINANCIAL CONTRIBUTIONS.—Notwithstanding any provision of the Convention, no funds may be drawn from the Treasury of the United States for any payment or assistance (including the transfer of in-kind items) under paragraph 16 of Article IV, paragraph 19 of Article V, paragraph 7 of Article VIII, paragraph 23 of Article IX, Article X, or any other provision of the Convention, without statutory authorization and appropriation.

(3) ESTABLISHMENT OF AN INTERNAL OVERSIGHT OFFICE.—

(A) CERTIFICATION.—Not later than 240 days after the deposit of the United States instrument of ratification, the President shall certify to the Congress that the current internal audit office of the Preparatory Commission has been expanded into an independent internal oversight office whose functions will be transferred to the Organization for the Prohibition of Chemical Weapons upon the establishment of the Organization. The independent internal oversight office shall be obligated to protect confidential information pursuant to the obligations of the Confidentiality Annex. The independent internal oversight office shall—

(i) make investigations and reports relating to all programs of the Organization;

(ii) undertake both management and financial audits, including—

(I) an annual assessment verifying that classified and confidential information is stored and handled securely pursuant to the general obligations set forth in Article VIII and in accordance with all provisions of the Annex on the Protection of Confidential Information; and

(II) an annual assessment of laboratories established pursuant to paragraph 55 of Part II of the Verification Annex to ensure that the Director General of the Technical Secretariat is carrying out his functions pursuant to paragraph 56 of Part II of the Verification Annex;

(iii) undertake performance evaluations annually to ensure the Organization has complied to the extent practicable with the recommendations of the independent internal oversight office;

(iv) have access to all records relating to the programs and operations of the Organization;

(v) have direct and prompt access to any official of the Organization; and

(vi) be required to protect the identity of, and prevent reprisals against, all complainants.

(B) COMPLIANCE WITH RECOMMENDATIONS.—The Organization shall ensure, to the extent practicable, compliance with recommendations of the independent internal oversight office, and shall ensure that annual and other relevant reports by the independent internal oversight office are made available to all member states pursuant to the requirements established in the Confidentiality Annex.

(C) WITHHOLDING A PORTION OF CONTRIBUTIONS.—Until a certification is made under subparagraph (A), 50 percent of the amount of United States contributions to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law.

(D) ASSESSMENT OF FIRST YEAR CONTRIBUTIONS.—Notwithstanding the requirements of this paragraph, for the first year of the Organization's operation, ending on April 29, 1998, the United States shall make its full contribution to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII.

(E) DEFINITION.—For purposes of this paragraph, the term "internal oversight office" means an independent office (or other independent entity) established by the Organization to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the Organization.

(4) COST SHARING ARRANGEMENTS.—

(A) ANNUAL REPORTS.—Prior to the deposit of the United States instrument of ratification, and annually thereafter, the President shall submit a report to Congress identifying all cost-sharing arrangements with the Organization.

(B) COST-SHARING ARRANGEMENT REQUIRED.—The United States shall not undertake any new research or development expenditures for the primary purpose of refining or improving the Organization's regime for verification of compliance under the Convention, including the training of inspectors and the provision of detection equipment and on-site analysis sampling and analysis techniques, or share the articles, items, or services resulting from any research and development undertaken previously, without first having concluded and submitted to the Congress a cost-sharing arrangement with the Organization.

(C) CONSTRUCTION.—Nothing in this paragraph may be construed as limiting or constricting in any way the ability of the United States to pursue unilaterally any project undertaken solely to increase the capability of the United States means for monitoring compliance with the Convention.

(5) INTELLIGENCE SHARING AND SAFEGUARDS.—

(A) PROVISION OF INTELLIGENCE INFORMATION TO THE ORGANIZATION.—

(i) IN GENERAL.—No United States intelligence information may be provided to the Organization or any organization affiliated with the Organization, or to any official or employee thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the Organization or other such organization, as the case may be to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information. These procedures shall include the requirement of—

(I) the offer and provision if accepted of advice and assistance to the Organization or the affiliated organization in establishing and maintaining the necessary measures to ensure that inspectors and other staff members of the Technical Secretariat meet the highest standards of efficiency, competence, and integrity, pursuant to paragraph 1(b) of the Confidentiality Annex, and in establishing and maintaining a stringent regime governing the handling of confidential information by the Technical Secretariat, pursuant to paragraph 2 of the Confidentiality Annex;

(II) a determination that any unauthorized disclosure of United States intelligence information to be provided to the Organization or any organization affiliated with the Organization, or any official or employee thereof, would result in no more than minimal damage to United States national security, in light of the risks of the unauthorized disclosure of such information;

(III) sanitization of intelligence information that is to be provided to the Organization or the affiliated organization to remove all information that could betray intelligence sources and methods; and

(IV) interagency United States intelligence community approval for any release of intelligence information to the Organization or the affiliated organization, no matter how thoroughly it has been sanitized.

(ii) WAIVER AUTHORITY.—

(I) IN GENERAL.—The Director of Central Intelligence may waive the application of clause (i) if the Director of Central Intelligence certifies in writing to the appropriate committees of Congress that providing such information to the Organization or an organization affiliated with the Organization, or to any official or employee thereof, is in the vital national security interests of the United States and that all possible measures to protect such information have been taken, except that such waiver must be made for each instance such information is provided, or for each such document provided. In the event that multiple waivers are issued within a single week, a single certification to the appropriate committees of Congress may be submitted, specifying each waiver issued during that week.

(II) DELEGATION OF DUTIES.—The Director of Central Intelligence may not delegate any duty of the Director under this paragraph.

(B) PERIODIC AND SPECIAL REPORTS.—

(i) IN GENERAL.—The President shall report periodically, but not less frequently than

semiannually, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the types and volume of intelligence information provided to the Organization or affiliated organizations and the purposes for which it was provided during the period covered by the report.

(ii) EXEMPTION.—For purposes of this subparagraph, intelligence information provided to the Organization or affiliated organizations does not cover information that is provided only to, and only for the use of, appropriately cleared United States Government personnel serving with the Organization or an affiliated organization.

(C) SPECIAL REPORTS.—

(i) REPORT ON PROCEDURES.—Accompanying the certification provided pursuant to subparagraph (A)(i), the President shall provide a detailed report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives identifying the procedures established for protecting intelligence sources and methods when intelligence information is provided pursuant to this section.

(ii) REPORTS ON UNAUTHORIZED DISCLOSURES.—The President shall submit a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives within 15 days after it has become known to the United States Government regarding any unauthorized disclosure of intelligence provided by the United States to the Organization.

(D) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

(E) RELATIONSHIP TO EXISTING LAW.—Nothing in this paragraph may be construed to—

(i) impair of otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5)); or

(ii) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(F) DEFINITIONS.—In this section:

(i) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

(ii) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention and includes any organ of that Organization and any board or working group, such as the Scientific Advisory Board, that may be established by it and any official or employee thereof.

(iii) ORGANIZATION AFFILIATED WITH THE ORGANIZATION.—The terms "organization affiliated with the Organization" and "affiliated organizations" include the Provisional Technical Secretariat under the Convention and any laboratory certified by the Director-General of the Technical Secretariat as designated to perform analytical or other functions and any official or employee thereof.

(6) AMENDMENTS TO THE CONVENTION.—

(A) VOTING REPRESENTATION OF THE UNITED STATES.—A United States representative will be present at all Amendment Conferences and will cast a vote, either affirmative or negative, on all proposed amendments made at such conferences.

(B) SUBMISSION OF AMENDMENTS AS TREATIES.—The President shall submit to the Senate for its advice and consent to ratification under Article II, Section 2, Clause 2 of the Constitution of the United States any amendment to the Convention adopted by an Amendment Conference.

(7) CONTINUING VITALITY OF THE AUSTRALIA GROUP AND NATIONAL EXPORT CONTROLS.—

(A) DECLARATION.—The Senate declares that the collapse of the informal forum of states known as the "Australia Group," either through changes in membership or lack of compliance with common export controls, or the substantial weakening of common Australia Group export controls and nonproliferation measures in force on the date of United States ratification of the Convention, would constitute a fundamental change in circumstances affecting the object and purpose of the Convention.

(B) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) nothing in the Convention obligates the United States to accept any modification, change in scope, or weakening of its national export controls;

(ii) the United States understands that the maintenance of national restrictions on trade in chemicals and chemical production technology is fully compatible with the provisions of the Convention, including Article XI(2), and solely within the sovereign jurisdiction of the United States;

(iii) the Convention preserves the right of State Parties, unilaterally or collectively, to maintain or impose export controls on chemicals and related chemical production technology for foreign policy or national security reasons, notwithstanding Article XI(2); and

(iv) each Australia Group member, at the highest diplomatic levels, has officially communicated to the United States Government its understanding and agreement that export control and nonproliferation measures which the Australia Group has undertaken are fully compatible with the provisions of the Convention, including Article XI(2), and its commitment to maintain in the future such export controls and nonproliferation measures against non-Australia Group members.

(C) ANNUAL CERTIFICATION.—

(i) EFFECTIVENESS OF AUSTRALIA GROUP.—The President shall certify to Congress on an annual basis that—

(I) Australia Group members continue to maintain an equally effective or more comprehensive control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of ratification of the Convention by the United States; and

(II) the Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and that the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, or the weakening of common controls and nonproliferation measures, in force as of the date of ratification of the Convention by the United States.

(ii) CONSULTATION WITH SENATE REQUIRED.—In the event that the President is, at any time, unable to make the certifications described in clause (i), the President shall consult with the Senate for the purposes of obtaining a resolution of support for continued adherence to the Convention, notwithstanding the fundamental change in circumstance.

(D) PERIODIC CONSULTATION WITH CONGRESSIONAL COMMITTEES.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export control and nonproliferation measures. If any Australia Group member adopts a position at variance with the certifications and understandings provided under subparagraph (B), or should seek to gain Australia Group acquiescence or approval for an interpretation that various provisions of the Convention require it to remove chemical-weapons related export controls against any State Party to the Convention, the President shall block any effort by the Australia Group member to secure Australia Group approval of such a position or interpretation.

(E) DEFINITIONS.—In this paragraph.

(i) AUSTRALIA GROUP.—The term "Australia Group" means the informal forum of states, chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls, chemical weapons precursor chemicals, biological weapons pathogens, and dual-use production equipment, and through other measures.

(ii) HIGHEST DIPLOMATIC LEVELS.—The term "highest diplomatic levels" means at the levels of senior officials with the power to authoritatively represent their governments, and does not include diplomatic representatives of these governments to the United States.

(8) NEGATIVE SECURITY ASSURANCES.—

(A) REEVALATION.—In forswearing under the Convention the possession of a chemical weapons retaliatory capability, the Senate understands that deterrence of attack by chemical weapons requires a reevaluation of the negative security assurances extended to non-nuclear-weapon states.

(B) CLASSIFIED REPORT.—Accordingly, 180 days after the deposit of the United States instrument of ratification, the President shall submit to the Congress a classified report setting forth the findings of a detailed review of United States policy on negative security assurances, including a determination of the appropriate responses to the use of chemical or biological weapons against the Armed Forces of the United States, United States citizens and allies, and third parties.

(9) PROTECTION OF ADVANCED BIOTECHNOLOGY.—Prior to the deposit of the United States instrument of ratification, and on January 1 of every year thereafter, the President shall certify to the Committee on Foreign Relations and the Speaker of the House of Representatives that the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 of the Annex on Chemicals.

(10) MONITORING AND VERIFICATION OF COMPLIANCE.—

(A) DECLARATION.—The Senate declares that—

(i) the Convention is in the interests of the United States only if all State Parties are in

strict compliance with the terms of the Convention as submitted to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply; and

(ii) the Senate expects all State Parties to be in strict compliance with their obligations under the terms of the Convention, as submitted to the Senate for its advice and consent to ratification;

(B) BRIEFINGS ON COMPLIANCE.—Given its concern about the intelligence community's low level of confidence in its ability to monitor compliance with the Convention, the Senate expects the executive branch of the Government to offer regular briefings, not less than four times a year, to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on compliance issues related to the Convention. Such briefings shall include a description of all United States efforts in bilateral and multilateral diplomatic channels and forums to resolve compliance issues and shall include a complete description of—

(i) any compliance issues the United States plans to raise at meetings of the Organization, in advance of such meetings;

(ii) any compliance issues raised at meetings of the Organization, within 30 days of such meeting;

(iii) any determination by the President that a State Party is in noncompliance with or is otherwise acting in a manner inconsistent with the object or purpose of the Convention, within 30 days of such a determination.

(C) ANNUAL REPORTS ON COMPLIANCE.—The President shall submit on January 1 of each year to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a certification of those countries included in the Intelligence Community's Monitoring Strategy, as set forth by the Director of Central Intelligence's Arms Control Staff and the National Intelligence Council (or any successor document setting forth intelligence priorities in the field of the proliferation of weapons of mass destruction) that are determined to be in compliance with the Convention, on a country-by-country basis;

(ii) for those countries not certified pursuant to clause (i), an identification and assessment of all compliance issues arising with regard to the adherence of the country to its obligations under the Convention;

(iii) the steps the United States has taken, either unilaterally or in conjunction with another State Party—

(I) to initiate challenge inspections of the noncompliant party with the objective of demonstrating to the international community the act of noncompliance;

(II) to call attention publicly to the activity in question; and

(III) to seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(iv) a determination of the military significance and broader security risks arising from any compliance issue identified pursuant to clause (ii); and

(v) a detailed assessment of the responses of the noncompliant party in question to action undertaken by the United States described in clause (iii).

(D) COUNTRIES PREVIOUSLY INCLUDED IN COMPLIANCE REPORTS.—For any country that was previously included in a report submitted under subparagraph (C), but which subsequently is not included in the Intelligence Community's Monitoring Strategy (or successor document), such country shall continue to be included in the report submitted under subparagraph (C) unless the country has been certified under subparagraph (C)(i) for each of the previous two years.

(E) FORM OF CERTIFICATIONS.—For those countries that have been publicly and officially identified by a representative of the intelligence community as possessing or seeking to develop chemical weapons, the certification described in subparagraph (C)(i) shall be in unclassified form.

(F) ANNUAL REPORTS ON INTELLIGENCE.—On January 1, 1998, and annually thereafter, the Director of Central Intelligence shall submit to the Committees on Foreign Relations, Armed Services, and the Select Committee on Intelligence of the Senate and to the Committees on International Relations, National Security, and Permanent Select Committee on Intelligence of the House of Representatives a full and complete classified and unclassified report regarding—

(i) the status of chemical weapons development, production, stockpiling, and use, within the meanings of those terms under the Convention, on a country-by-country basis;

(ii) any information made available to the United States Government concerning the development, production, acquisition, stockpiling, retention, use, or direct or indirect transfer of novel agents, including any unitary or binary chemical weapon comprised of chemical components not identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iii) the extent of trade in chemicals potentially relevant to chemical weapons programs, including all Australia Group chemicals and chemicals identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iv) the monitoring responsibilities, practices, and strategies of the intelligence community (as defined in section 3(4) of the National Security Act of 1947) and a determination of the level of confidence of the intelligence community with respect to each specific monitoring task undertaken, including an assessment by the intelligence community of the national aggregate data provided by State Parties to the Organization, on a country-by-country basis;

(v) an identification of how United States national intelligence means, including national technical means and human intelligence, are being marshaled together with the Convention's verification provisions to monitor compliance with the Convention; and

(vi) the identification of chemical weapons development, production, stockpiling, or use, within the meanings of those terms under the Convention, by subnational groups, including terrorist and paramilitary organizations.

(G) REPORTS ON RESOURCES FOR MONITORING.—Each report required under subparagraph (F) shall include a full and complete classified annex submitted solely to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives regarding—

(i) a detailed and specific identification of all United States resources devoted to monitoring the Convention, including information on all expenditures associated with the monitoring of the Convention; and

(ii) an identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical and biological weapons, including a description of the steps being taken and resources being devoted to strengthening United States monitoring capabilities.

(11) ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.—

(A) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) chemical and biological threats to deployed United States Armed Forces will continue to grow in regions of concern around the world, and pose serious threats to United States power projection and forward deployment strategies;

(ii) chemical weapons or biological weapons use is a potential element of future conflicts in regions of concern;

(iii) it is essential for the United States and key regional allies to preserve and further develop robust chemical and biological defenses;

(iv) the United States Armed Forces are inadequately equipped, organized, trained and exercised for chemical and biological defense against current and expected threats, and that too much reliance is placed on non-active duty forces, which receive less training and less modern equipment, for critical chemical and biological defense capabilities;

(v) the lack of readiness stems from a de-emphasis of chemical and biological defenses within the executive branch of Government and the United States Armed Forces;

(vi) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(vii) congressional direction contained in the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201) should lead to enhanced domestic preparedness to protect against chemical and biological weapons threats; and

(viii) the United States Armed Forces should place increased emphasis on potential threats to forces deployed abroad and, in particular, make countering chemical and biological weapons use an organizing principle for United States defense strategy and development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(B) ACTIONS TO STRENGTHEN DEFENSE CAPABILITIES.—The Secretary of Defense shall take those actions necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans, despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in a chemically or biologically contaminated environment that are critical to the success of the United States military plans in regional conflicts, including—

(i) deployment, logistics, and reinforcement operations at key ports and airfields;

(ii) sustained combat aircraft sortie generation at critical regional airbases; and

(iii) ground force maneuvers of large units and divisions.

(C) DISCUSSIONS WITH REGIONAL ALLIES AND LIKELY COALITION PARTNERS.—

(i) IN GENERAL.—The Secretaries of Defense and State shall, as a priority matter, initiate discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(ii) REPORTING REQUIREMENT.—Not later than one year after deposit of the United States instrument of ratification, the Secretaries of Defense and State shall submit a report to the Committees on Foreign Relations and Armed Services of the Senate and to the Speaker of the House of Representatives on the result of these discussions, plans for future discussions, measures agreed to improve the preparedness of foreign forces and civilians, and proposals for increased military assistance, including through the Foreign Military Sales and Foreign Military Financing under the Arms Export Control Act, and the International Military Education and Training programs pursuant to the Foreign Assistance Act of 1961.

(D) UNITED STATES ARMY CHEMICAL SCHOOL.—The Secretary of Defense shall take those actions necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(E) SENSE OF THE SENATE.—Given its concerns about the present state of chemical and biological defense readiness and training, it is the sense of the Senate that—

(i) in the transfer, consolidation, and reorganization of the United States Army Chemical School, the Army should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment;

(ii) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement training facility at Fort Leonard Wood is functional.

(F) ANNUAL REPORTS ON CHEMICAL AND BIOLOGICAL WEAPONS DEFENSE ACTIVITIES.—On January 1, 1998, and annually thereafter, the President shall submit a report to the Committees on Foreign Relations, Appropriations, and Armed Services of the Senate and the Committees on International Relations, National Security, and Appropriations of the House of Representatives, and the Speaker of the House of Representatives on previous, current, and planned chemical and biological weapons defense activities. The report shall contain for the previous fiscal year and for the next three fiscal years—

(i) proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 report of the General Accounting Office entitled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subparagraph (B) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons;

(ii) identification of the priorities of the executive branch of Government in the development of both active and passive chemical and biological defenses;

(iii) a detailed summary of all budget activities associated with the research, development, testing, and evaluation of chemical and biological defense programs;

(iv) a detailed summary of expenditures on research, development, testing, and evaluation, and procurement of chemical and biological defenses by fiscal years defense programs, department, and agency;

(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States power-projection forces, including progress in developing a nonaqueous chemical decontamination capability;

(vii) a description of progress made in procuring light-weight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battle-dress overgarments and chemical protective overgarments to maintain required wartime inventory levels;

(viii) a description of progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(ix) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and boost-phase intercepts;

(x) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically or biologically contaminated environment; and

(II) actions taken to sustain training and readiness, including training and readiness carried out at national combat training centers;

(xi) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games, and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiii) a description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for inoculation of populations, consequence management, and a description of progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(13) NONCOMPLIANCE.—

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production or production mobilization capability, is developing new chemical agents, or is in violation of the Convention in any other manner so as to threaten the national security interests of the United States, then the President shall—

(i) consult with the Senate, and promptly submit to it, a report detailing the effect of such actions;

(ii) seek on an urgent basis a challenge inspection of the facilities of the relevant party in accordance with the provisions of the Convention with the objective of demonstrating to the international community the act of noncompliance;

(iii) seek, or encourage, on an urgent basis a meeting at the highest diplomatic level with the relevant party with the objective of bringing the noncompliant party into compliance;

(iv) implement prohibitions and sanctions against the relevant party as required by law;

(v) if noncompliance has been determined, seek on an urgent basis within the Security Council of the United Nations a multilateral imposition of sanctions against the noncompliant party for the purposes of bringing the noncompliant party into compliance; and

(vi) in the event that the noncompliance continues for a period of longer than one year after the date of the determination made pursuant to subparagraph (A), promptly consult with the Senate for the purposes of obtaining a resolution of support for continued adherence to the Convention, notwithstanding the changed circumstances affecting the object and purpose of the Convention.

(B) CONSTRUCTION.—Nothing in this section may be construed to impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5)).

(C) PRESIDENTIAL DETERMINATIONS.—If the President determines that an action otherwise required under subparagraph (A) would impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure, the President shall report that determination, together with a detailed written explanation of the basis for that determination, to the chairmen of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence not later than 15 days after making such determination.

(14) FINANCING RUSSIAN IMPLEMENTATION.—The United States understands that, in order to be assured of the Russian commitment to a reduction in chemical weapons stockpiles, Russia must maintain a substantial stake in financing the implementation of both the 1990 Bilateral Destruction Agreement and the Convention. The United States shall not accept any effort by Russia to make deposit of Russia's instrument of ratification of the Convention contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the 1990 Bilateral Destruction Agreement or the Convention.

(15) ASSISTANCE UNDER ARTICLE X.—

(A) IN GENERAL.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that the United States shall not provide assistance under paragraph 7(a) of Article X.

(B) COUNTRIES INELIGIBLE FOR CERTAIN ASSISTANCE UNDER THE FOREIGN ASSISTANCE ACT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that for any State Party the government of which is not eligible for assistance under chapter 2 of part II (relating to military assistance) or chapter 4 of part II (relating to economic support assistance) of the Foreign Assistance Act of 1961—

(i) no assistance under paragraph 7(b) of Article X will be provided to the State Party; and

(ii) no assistance under paragraph 7(c) of Article X other than medical antidotes and treatment will be provided to the State Party.

(16) PROTECTION OF CONFIDENTIAL INFORMATION.—

(A) UNAUTHORIZED DISCLOSURE OF UNITED STATES BUSINESS INFORMATION.—Whenever the President determines that persuasive information is available indicating that—

(i) an officer or employee of the Organization has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, and

(ii) such practice or disclosure has resulted in financial losses or damages to a United States person,

the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination.

(B) WAIVER OF IMMUNITY FROM JURISDICTION.—

(i) CERTIFICATION.—Not later than 270 days after notification of Congress under subparagraph (A), the President shall certify to Congress that the immunity from jurisdiction of such foreign person has been waived by the Director-General of the Technical Secretariat.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(C) BREACHES OF CONFIDENTIALITY.—

(i) CERTIFICATION.—In the case of any breach of confidentiality involving both a State Party and the Organization, including any officer or employee thereof, the President shall, within 270 days after providing written notification to Congress pursuant to subparagraph (A), certify to Congress that the Commission described under paragraph 23 of the Confidentiality Annex has been established to consider the breach.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(D) DEFINITIONS.—In this paragraph:

(i) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The term "United States confidential business information means any trade secrets or commercial or financial information that is privileged and confidential, as described in section 662(b)(4) of title 5, United States Code, and that is obtained—

(I) from a United States person; and

(II) through the United States National Authority or the conduct of an inspection on United States territory under the Convention.

(ii) UNITED STATES PERSON.—The term "United States person" means any natural person or any corporation, partnership, or other juridical entity organized under the laws of the United States.

(iii) UNITED STATES.—The term "United States" means the several States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

(17) CONSTITUTIONAL PREROGATIVES.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article II, Section 2, Clause 2 of the United States Constitution states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur".

(ii) At the turn of the century, Senator Henry Cabot Lodge took the position that the giving of advice and consent to the ratification of treaties constitutes a stage in negotiation on the treaties and that Senate amendments or reservations to a treaty are propositions "offered at a later stage of the negotiation by the other part of the American treaty making power in the only manner in which they could then be offered".

(iii) The executive branch of Government has begun a practice of negotiating and submitting to the Senate treaties which include provisions that have the purported effect of—

(I) inhibiting the Senate from attaching reservations that the Senate considers necessary in the national interest; or

(II) preventing the Senate from exercising its constitutional duty to give its advice and consent to treaty commitments before ratification of the treaties.

(iv) During the 85th Congress, and again during the 102d Congress, the Committee on Foreign Relations of the Senate made its position on this issue clear when stating that "the President's agreement to such a prohibition cannot constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest".

(B) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) the advice and consent given by the Senate in the past to ratification of treaties containing provisions which prohibit amendments or reservations should not be construed as a precedent for such provisions in future treaties;

(ii) United States negotiators to a treaty should not agree to any provision that has the effect of inhibiting the Senate from attaching reservations or offering amendments to the treaty; and

(iii) the Senate should not consent in the future to any article or other provision of any treaty that would prohibit the Senate from giving its advice and consent to ratification of the treaty subject to amendment or reservation.

(18) LABORATORY SAMPLE ANALYSIS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(19) EFFECT ON TERRORISM.—The Senate finds that—

(A) without regard to whether the Convention enters into force, terrorists will likely view chemical weapons as a means to gain greater publicity and instill widespread fear; and

(B) the March 1995 Tokyo subway attack by the Aum Shinrikyo would not have been prevented by the Convention.

(20) CONSTITUTIONAL SEPARATION OF POWERS.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article VIII(8) of the Convention allows a State Party to vote in the Organization if the State Party is in arrears in the payment of financial contributions and the Organization is satisfied that such nonpayment is due to conditions beyond the control of the State Party.

(ii) Article I, Section 8 of the United States Constitution vests in Congress the exclusive authority to "pay the Debts" of the United States.

(iii) Financial contributions to the Organization may be appropriated only by Congress.

(B) SENSE OF SENATE.—It is therefore the sense of the Senate that—

(i) such contributions thus should be considered, for purposes of Article VIII(8) of the Convention, beyond the control of the executive branch of the United States Government; and

(ii) the United States vote in the Organization should not be denied in the event that Congress does not appropriate the full amount of funds assessed for the United States financial contribution to the Organization.

(21) ON-SITE INSPECTION AGENCY.—It is the sense of the Senate that the On-Site Inspection Agency of the Department of Defense should have the authority to provide assistance in advance of any inspection to any facility in the United States that is subject to a routine inspection under the Convention, or to any facility in the United States that is the object of a challenge inspection conducted pursuant to Article IX, if the consent of the owner or operator of the facility has first been obtained.

(22) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ANNUAL ASSESSMENT.—Notwithstanding any provision of the Convention, and subject to the requirements of subparagraphs (B), (C), and (D), the United States shall pay as a total annual assessment of the costs of the Organization pursuant to paragraph 7 of Article VIII not more than $25,000,000.

(B) RECALCULATION OF LIMITATIONS.—On January 1, 2000, and at each 3-year interval thereafter, the amount specified in subparagraph (A) is to be recalculated by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(i) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions which would otherwise be prohibited under subparagraph (A) if—

(I) the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the failure to provide such contributions would result in the inability of the Organization to conduct challenge inspections pursuant to Article IX or would otherwise jeopardize the national security interests of the United States; and

(II) Congress enacts a joint resolution approving the certification of the President.

(ii) STATEMENT OF REASONS.—The President shall transmit with such certification a detailed statement setting forth the specific reasons therefor and the specific uses to which the additional contributions provided to the Organization would be applied.

(D) ADDITIONAL CONTRIBUTIONS FOR VERIFICATION.—Notwithstanding subparagraph (A), for a period of not more than ten years, the President may furnish additional contributions to the Organization for the purposes of meeting the costs of verification under Articles IV and V.

(23) ADDITIONS TO THE ANNEX ON CHEMICALS.—

(A) PRESIDENTIAL NOTIFICATION.—Not later than 10 days after the Director-General of the Technical Secretariat communicates information to all States Parties pursuant to Article XI(5)(a) of a proposal for the addition of a chemical or biological substance to a schedule of the Annex on Chemicals, the President shall notify the Committee on Foreign Relations of the Senate of the proposed addition.

(B) PRESIDENTIAL REPORT.—Not later than 60 days after the Director-General of the Technical Secretariat communicates information of such a proposal pursuant to Article XV(5)(a) or not later than 30 days after a positive recommendation by the Executive Council pursuant to Article XV(5)(c), whichever is sooner, the President shall submit to the Committee on Foreign Relations of the Senate a report, in classified and unclassified form, detailing the likely impact of the proposed addition to a schedule of the Annex on Chemicals. Such report shall include—

(i) an assessment of the likely impact on United States industry of the proposed addition of the chemical or biological substance to a schedule of the Annex on Chemicals;

(ii) a description of the likely costs and benefits, if any, to United States national security of the proposed addition of such chemical or biological substance to a schedule of the Annex on Chemicals; and

(iii) a detailed assessment of the effect of the proposed addition on United States obligations under the Verification Annex.

(C) PRESIDENTIAL CONSULTATION.—The President shall, after the submission of the notification required under subparagraph (A) and prior to any action on the proposal by the Executive Council under Article XV(5)(c), consult promptly with the Senate as to whether the United States should object to the proposed addition of a chemical or biological substance pursuant to Article XV(5)(c).

(24) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the Constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification with respect to the INF Treaty. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

(25) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power as set forth in Article II, section 2, clause 2 of the Constitution.

(26) RIOT CONTROL AGENTS.—

(A) PERMITTED USES.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that the United States is not restricted by the Convention in its use of riot control agents, including the use against combatants who are parties to a conflict, in any of the following cases:

(i) UNITED STATES NOT A PARTY.—The conduct of peacetime military operations within an area of ongoing armed conflict when the United States is not a party to the conflict (such as recent use of the United States Armed Forces in Somalia, Bosnia, and Rwanda).

(ii) CONSENSUAL PEACEKEEPING.—Consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations pursuant to Chapter VI of the United Nations Charter.

(iii) CHAPTER VII PEACEKEEPING.—Peacekeeping operations when force is authorized by the Security Council under Chapter VII of the United Nations Charter.

(B) IMPLEMENTATION.—The President shall take no measure, and prescribe no rule or regulation, which would alter or eliminate Executive Order 11850 of April 8, 1975.

(C) DEFINITION.—In this paragraph, the term "riot control agent" has the meaning given the term in Article II(7) of the Convention.

(27) CHEMICAL WEAPONS DESTRUCTION.—Prior to the deposit of the United States instrument of ratification of the Convention, the President shall certify to the Congress that all of the following conditions are satisfied:

(A) EXPLORATION OF ALTERNATIVE TECHNOLOGIES.—The President has agreed to explore alternative technologies for the destruction of the United States stockpile of chemical weapons in order to ensure that the United States has the safest, most effective and environmentally sound plans and programs for meeting its obligations under the Convention for the destruction of chemical weapons.

(B) CONVENTION EXTENDS DESTRUCTION DEADLINE.—The requirement in section 1412 of Public Law 99-145 (50 U.S.C. 1521) for completion of the destruction of the United States stockpile of chemical weapons by December 31, 2004, will be superseded upon the date the Convention enters into force with respect to the United States by the deadline required by the Convention of April 29, 2007.

(C) AUTHORITY TO EMPLOY A DIFFERENT DESTRUCTION TECHNOLOGY.—The requirement in Article III(1)(a)(v) of the Convention for a declaration by each State Party not later than 30 days after the date the Convention enters into force with respect to that Party on general plans of the State Party for destruction of its chemical weapons does not preclude in any way the United States from deciding in the future to employ a technology for the destruction of chemical weapons different than that declared under that Article.

(D) PROCEDURES FOR EXTENSION OF DEADLINE.—The President will consult with Congress on whether to submit a request to the Executive Council of the Organization for an extension of the deadline for the destruction of chemical weapons under the Convention, as provided under part IV(A) of the Annex on Implementation and Verification to the Convention, if, as a result of the program of alternative technologies for the destruction of chemical munitions carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in Public Law 104-208), the President determines that alternatives to the incineration of chemical weapons are available that are safer and more environmentally sound but whose use would preclude the United States from meeting the deadlines of the Convention.

(28) CONSTITUTIONAL PROTECTION AGAINST UNREASONABLE SEARCH AND SEIZURE.—

(A) IN GENERAL.—In order to protect United States citizens against unreasonable searches and seizures, prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) for any challenge inspection conducted on the territory of the United States pursuant to Article IX, where consent has been withheld, the United States National Authority will first obtain a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the persons or things to be seized; and

(ii) for any routine inspection of a declared facility under the Convention that is conducted on the territory of the United States, where consent has been withheld the United States National Authority first will obtain an administrative search warrant from a United States magistrate judge.

(B) DEFINITION.—For purposes of this resolution, the term "National Authority" means the agency or office of the United States Government designated by the United States pursuant to Article VII(4) of the Convention.

SECTION 3. DEFINITIONS.

As used in this resolution:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "Chemical Weapons Convention" or the "Convention" (contained in Treaty Document 103-21):

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention.

(3) STATE PARTY.—The term "State Party" means any nation that is a party to the Convention.

(4) UNITED STATES INSTRUMENT OR RATIFICATION.—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Convention.

Mr. HELMS. Mr. President, of course I am disappointed by today's vote on the CWC. But I find some solace in the fact that, thanks to our efforts, this treaty is much less harmful than it would have been. I am enormously proud of Senators KYL, INHOFE, and other Senators who stood with us despite enormous pressure against this treaty. I believe history will vindicate their efforts.

Make no mistake, this is a dangerous treaty. But it is a little less dangerous thanks to the efforts we made to amend it, and to deliver the truth to the American people. Last September, treaty proponents were pressing the Senate to vote on a treaty that had none of the key protections that some of us succeeded in inserting in this treaty. Had we not been a phalanx of common sense standing in their way, the exact same treaty would have been before the Senate for ratification today, and that would have been a disaster.

The treaty approved by the Senate tonight was toned down with 28 conditions, most of which the administration was until recently calling "killer amendments." Those include, among many others, conditions that limit the cost of the treaty to the American taxpayer, place safeguards on intelligence sharing, enhance our chemical defenses, and protect confidential business information.

Further, concessions on what I consider some of the most important issues—such as protecting the right of American commanders in the field to use tear gas, and requiring criminal search warrants for foreign inspectors—came only the final days before I agreed to allow the treaty to go to the Senate floor for a vote. If we had not held out so long—in spite of all the criticism and derision lobbed in our direction—none of those protections would be in the treaty today.

I hope I may be forgiven for taking some satisfaction in the knowledge that, thanks to what our critics called our stubbornness, our soldiers in the field will be a little safer, and the constitutional rights of American citizens will be a little better protected. Final judgment of our efforts will be left to future generations.

I do know this: those great Senators with whom I was honored to stand fought the good fight, we won some battles, and lost others. But we fought with honor, and integrity, and for the cause of right.

Mr. BIDEN addressed the Chair.

The VICE PRESIDENT. The Senator from Delaware.

Mr. BIDEN. I would like to thank the Vice President for being at the ready the whole day, and I would like to thank my colleagues for not making it necessary. I am glad they deprived the Vice President of the United States the opportunity to vote on the five conditions and on final passage. But I want to point out to my colleagues who are being very nice and solicitous about my efforts in this regard, the Vice President of the United States, who is in the Chair, played a critical role in pushing this, making sure that we kept it before the Nation, generating the interesting debate so this could not be left untouched, and I want to publicly thank him.

There is that old expression in politics that politics makes strange bedfellows. I have had the distinction and the honor of having been the ranking member and/or chairman with the distinguished Senator from South Carolina, Senator THURMOND, and when I got that assignment I think most of my colleagues looked at me and said, this is going to be an interesting time, BIDEN and THURMOND. We turned out to be very good friends. This is the first occasion after 25 years that I have had to work as closely as I have with my new chairman of the Foreign Relations Committee, on which I rank, and that is Senator HELMS. I want to publicly thank him. He kept his word at every stage of this long, arduous, and for me ultimately rewarding negotiation. I want to acknowledge how much I appreciate it.

I conclude by saying, because I do not want to turn this into some litany of people to thank, what a pleasure it has been to work with and receive the guidance and encouragement from the Senator from Indiana [Mr. LUGAR]. He has served this Nation well on this occasion, as well as Senator MCCAIN. I hope I am not hurting their credentials in the Republican party by acknowledging how closely I worked with both of them. However, I think it should be noted that without the two of them weighing in on this treaty I not only doubt, I know we would not have passed this.

I conclude by saying I truly think this is a very important moment in the Senate, and I do think the vote we just cast will be within the next hour heard around the world. Had we voted the other way, it would have been a louder, more resounding sound than the one now. It will be heard around the world, and it will reaffirm American leadership.

I thank the Vice President for being here again and I am also thankful we did not have to have his vote, but I knew where it was if we had needed it.

I yield the floor.

The VICE PRESIDENT. Under the previous order, the President will be immediately notified.

LEGISLATIVE SESSION

The VICE PRESIDENT. The Senate now returns to legislative session.

MORNING BUSINESS

Mr. ROBERTS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak up to 5 minutes each.

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

COMMENDING KENTUCKY AIR NATIONAL GUARD

Mr. FORD. Mr. President, I just want to take a moment to extend my personal thanks to the Kentucky Air National Guard for a job well done. When the U.S. Air Force chose the Kentucky Derby Festival's annual Thunder Over Louisville celebration as one of the high points in a year-long celebration of the Air Force's 50th anniversary, the Kentucky Air National Guard proved to be the perfect hosts. They not only brought in all the aircraft, but coordinated all the different services.

Thunder Over Louisville has already gained a reputation as a one-of-a-kind air show and fireworks display. But I think everyone agreed that this year will be hard to top. The performances were truly spectacular, but much of the success is also due to the tremendous job the city, the Air Force, the Derby Festival and the Kentucky Air National Guard did to assure the event ran smoothly and safely.

Called "Wild Blue Thunder" in tribute to the Air Force's 50th Anniversary, it was the world's largest show of its kind in America, both for the fireworks display and for the air performances.

The fireworks were reported to be larger than the opening and closing of the Atlanta Olympics combined and of the Inaugural fireworks. The impressive show culminated in an 11,000 waterfall of fireworks off the Clark Memorial Bridge.

The television and radio commercials for Thunder Over Louisville use the tag line "you haven't seen anything until you've seen everything." The Air Force and other armed services certainly pulled out all the stops with air performances showcasing the "Thunderbirds USAF Aerobatic Team," the F-

117 A Stealth Fighter, the B–2 Stealth Bomber, the SR–71A Strategic Reconnaissance Plane, the B–1B Long Range Strategic Bomber, F–14 "Tomcat" jet fighter, the A–10 Warthog Tank Killer jet fighter, the F–15 "Eagle" jet fighter, the T–33 "Thunderbird," and Apache and Blackhawk helicopters.

The performances were not only a great source of entertainment, but also were a tremendous learning experience for spectators of all ages, especially about Kentucky's homegrown talent.

Kentucky's 123rd already has an impressive list of accomplishments under their belt. And I've come to the Senate floor time and again to commend them on their exceptional work in places like Bosnia, Somalia, and Rwanda.

But as part of the Derby Festival's spectacular display, the 123rd got to show off for the hometown crowd. 650,000 Kentuckians saw first-hand the 123rd's skill and expertise with the C–130Hs, getting a better idea of how important this unit is to the overall operations of this nation's active duty Air Force. And that will make my job much easier this year if Pentagon officials start making moves to pull any of the 123rd's C–130Hs.

Mr. President, let me close by thanking the 123rd for their hard work and their hospitality. I know the true test of their abilities happens when they are far from home. But it's nice to remind everyone at home just how lucky we are to have such a talented, committed group of service people right here in Kentucky.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 23, 1997, the federal debt stood at $5,345,088,835,181.58. (Five trillion, three hundred forty-five billion, eighty-eight million, eight hundred thirty-five thousand, one hundred eighty-one dollars and fifty-eight cents)

One year ago, April 23, 1996, the federal debt stood at $5,106,372,000,000. (Five trillion, one hundred six billion, three hundred seventy-two million)

Five years ago, April 23, 1992, the federal debt stood at $3,877,376,000,000. (Three trillion, eight hundred seventy-seven billion, three hundred seventy-six million)

Ten years ago, April 23, 1987, the federal debt stood at $2,264,001,000,000. (Two trillion, two hundred sixty-four billion, one million)

Fifteen years ago, April 23, 1982, the federal debt stood at $1,058,822,000,000 (One trillion, fifty-eight billion, eight hundred twenty-two million) which reflects a debt increase of more than $4 trillion—$4,286,266,835,181.58 (Four trillion, two hundred eighty-six billion, two hundred sixty-six million, eight hundred thirty-five thousand, one hundred eighty-one dollars and fifty-eight cents) during the past 15 years.

PATRICK H. WINDHAM

Mr. LIEBERMAN. Mr. President, I would like to take a few moments to pay tribute to Patrick H. Windham, the long-serving Senior Democratic Professional Staff Member for the Subcommittee on Science, Technology and Space. Pat is leaving Washington for California with his wife Arati Prabhakar and newborn baby Katie after nearly 20 years of service to the Senate, primarily on science and technology policy issues. For the many people here who knew or worked with Pat, including my staff and me, he will be sorely missed as a great source of institutional knowledge but most of all as a friend, a genuine and nice guy in a town not always known for its friendliness.

Originally from California, Pat completed his undergraduate work at Stanford, received a Masters in public policy from the University of California at Berkeley and first came to the Hill in 1976 as a Congressional Fellow to the Committee on Commerce, Science and Transportation. In 1982 Pat began his long association with Senator HOLLINGS, joining his personal staff as a legislative assistant. He has held his present position of Senior Democratic Professional staff member for the Subcommittee on Commerce, Science and Transportation since 1984.

I met Pat through his many hours of work on the important issue of technology partnerships, especially those run through the Commerce Department such as the Advanced Technology Program. Pat, along with my able colleague Senator HOLLINGS, has been a tireless advocate of promoting the movement of new ideas generated by scientists and engineers in our universities and national laboratories out into the commercial marketplace. Widely respected for his substantive thinking on such topics, Pat has tirelessly worked on legislative solutions that would bridge the cultural gap existing between the differing worlds of academia, government and industry. I believe this effort to be critical towards ensuring the future ability of America to compete in a global market.

During World War II and the subsequent Cold War, federal investment in science and technology was seen as essential to maintaining America's national security. A by-product of federal investment was an infrastructure of world-leading high tech defense companies, laboratories and universities and subsequent creation of an entire new generation of products and industries. With the end of the Cold War, the defense rationale for continued investment is not as politically compelling and the growth of information technologies continues to change the landscape for American business.

We are now in a period of transition, looking for ways to move from the old system of innovation where the government funded the science, paid for development and then purchased the final product—to a new system that preserves both our country's security and its competitive economic advantage. It is not an exaggeration to say that Pat has been a major contributor in the development of science and technology policy during this turbulent transition period. My office and I particularly respect his work for Senator HOLLINGS as an architect of both the Advanced Technology Program and the Manufacturing Extension Program, both of which help move technology and information out to the manufacturing floors of America's workplaces. Pat has always been open minded, has carefully listened and will be remembered as a joy to work with. My staff and I hope that Pat will find some time to write and reflect on the technology policy issues he's been grappling with for so long, and welcome fresh insights from him. The Senate owes him a large debt of thanks for his fine work here. Good luck in California, Pat, and best wishes to your wonderful wife and daughter.

82ND ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. KENNEDY. Mr. President, today marks the 82nd anniversary of the beginning of one of the most tragic episodes in human history. Beginning in 1915, the Government of the Ottoman Turks waged a vicious campaign of genocide against the people of Armenia. One and a half million Armenians were killed in the following eight years. Over 500,000 more Armenians were forced into exile from their homeland and compelled to seek havens in other lands.

The extraordinary resiliency of the Armenian people can be seen by what they have accomplished in their new lands. Nations around the world have benefited from the spirit and perseverance of the Armenians. No nation has benefited more from the contributions of the Armenian Diaspora than the United States. My own state of Massachusetts is blessed with a large and vigorous community of Armenians who have played an important role in all aspects of public and private life in our state.

I commend the tireless efforts of the Armenian Assembly of America and the Armenian National Committee for their outstanding work in informing Americans about the history and culture of Armenia and its people. In honoring Armenians throughout the world today, we also pledge to do all we can to banish genocide against any peoples anywhere from the face of the earth.

MESSAGES FROM THE HOUSE

At 2 p.m., a message from the House of Representatives, delivered by Mr.

Hays, one of its reading clerks, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 8. Concurrent resolution recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R 39. An act to reauthorize the African Elephant Conservation Act.

H.R. 400. An act to amend title 35, United States Code, with respect to patents, and for other purposes.

H.R. 449. An act to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

H.R. 688. An act to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such Act.

H.R. 1272. An act to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes.

At 6:26 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R 1273. An act to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

H.R. 1274. An act to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes.

H.R. 1275. An act to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R 39. An act to reauthorize the African Elephant Conservation Act; to the Committee on Environment and Public Works.

H.R. 400. An act to amend title 35, United States Code, with respect to patents, and for other purposes; to the Committee on the Judiciary.

H.R. 449. An act to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada; to the Committee on Energy and Natural Resources.

H.R. 688. An act to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such Act; to the Committee on Environment and Public Works.

H.R. 1272. An act to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1273. An act to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 1274. An act to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1275. An act to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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–1689. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the certification regarding the incidental capture of sea turtles; to the Committee on Commerce, Science, and Transportation.

EC–1690. A communication from the Chairman of the Interagency Coordinating Committee on Oil Pollution Research, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of the oil pollution research and technology plan; to the Committee on Commerce, Science, and Transportation.

EC–1691. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC–1692. A communication from the Director of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC–1693. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a summary relative to the NASA Crows Landing Facility; to the Committee on Commerce, Science, and Transportation.

EC–1694. A communication from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting, pursuant to law, the report on the plan for coordinating and eliminating unnecessary duplication of operations; to the Committee on Armed Services.

EC–1695. A communication from the Administrator from the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to increase in fees and charges, received on April 18, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1696. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to export certification of animal products, received on April 18, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1697. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to viruses, serums, toxins, and analogues, received on April 18, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1698. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "Eligibility for the Defense Experimental Program to Stimulate Competitive Research"; to the Committee on Armed Services.

EC–1699. A communication from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Department of the Air Force, Department of Defense, transmitting, pursuant to law, a multi-function cost comparison study relative to Tinker Air Force Base (AFB), Oklahoma; to the Committee on Armed Services.

EC–1700. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the second special impoundment message for fiscal year 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, Committee on the Budget, Committee on Agriculture, Nutrition, and Forestry, Committee on Armed Services, Banking, Housing, and Urban Affairs, Committee on Energy and Natural Resources, Committee on Finance, Committee on Governmental Affairs, and the Committee on the Judiciary.

EC–1701. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the interim report on the Lead-Based Hazard Control Grant Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–1702. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the Comprehensive Needs Assessment; to the Committee on Banking, Housing, and Urban Affairs.

EC–1703. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation entitled "Public Housing Management Reform Act of 1997"; to the Committee on Banking, Housing, and Urban Affairs.

EC–1704. A communication from the Acting President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the report with respect to transactions involving exports to Poland; to the Committee on Banking, Housing, and Urban Affairs.

EC–1705. A communication from the Acting Director of the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, three rules including one entitled "Texas Regulatory Program," (TX–017–FOR) received on March 20, 1997; to the Committee on Energy and Natural Resources.

EC–1706. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report relative to the Lost Creek Dam Weber Basin Project, Utah; to the Committee on Energy and Natural Resources.

EC–1707. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, a rule relative to royalties, rentals and bonuses, (RIN 1010–AC01) received on April 17, 1997; to the Committee on Energy and Natural Resources.

EC–1708. A communication from the Acting Director of the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, a rule relative to permit application process, (RIN1029-AB91) received on April 17, 1997; to the Committee on Energy and Natural Resources.

EC–1709. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, four rules including a rule entitled "Food and Drugs," (RIN0919-AA19) received on April 3, 1997; to the Committee on Labor and Human Resources.

EC–1710. A communication from the Chairman of the Consumer Products Safety Commission, transmitting, pursuant to law, the annual report on the administration of the government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–1711. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report entitled "Toward a More Equitable Relationship: Structuring the District of Columbia's State Functions"; to the Committee on Governmental Affairs.

EC–1712. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-61 adopted by the Council on March 4, 1997; to the Committee on Governmental Affairs.

EC–1713. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a request for additional appropriations for fiscal year 1997; to the Committee on Governmental Affairs.

EC–1714. A communication from the President of the Federal Financing Bank, transmitting, pursuant to law, the fiscal year 1996 management report; to the Committee on Governmental Affairs.

EC–1715. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the management report of the Government National Mortgage Association for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1716. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, the Federal Housing Administration Management Report for fiscal year 1995; to the Committee on Governmental Affairs.

EC–1717. A communication from the General Counsel of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule entitled "Thrift Savings Plan" received on April 16, 1997; to the Committee on Governmental Affairs.

EC–1718. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule relative to excepted service, (RIN3206-AH67) received on April 16, 1997; to the Committee on Governmental Affairs.

EC–1719. A communication from the Chairman of the Christopher Columbus Fellowship Foundation, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–1720. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to disease status, received on April 17, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1721. A communication from the Under Secretary of Commerce for Oceans and Atmosphere, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC–1722. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, two rules including a rule entitled "Guides for the Jewelry, Precious Metals and Pewter Industries"; to the Committee on Commerce, Science, and Transportation.

EC–1723. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The Maritime Administration Authorization Act for Fiscal Years 1998 and 1999"; to the Committee on Commerce, Science, and Transportation.

EC–1724. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to authorize appropriations for fiscal years 1998 and 1999 for the U.S. Coast Guard; to the Committee on Commerce, Science, and Transportation.

EC–1725. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, two rules including a rule entitled "Railroad Consolidation Procedures"; to the Committee on Commerce, Science, and Transportation.

EC–1726. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on northeast multispecies harvest capacity; to the Committee on Commerce, Science, and Transportation.

EC–1727. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on bluefin tuna for calendar years 1995 and 1996; to the Committee on Commerce, Science, and Transportation.

EC–1728. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the Chesapeake Bay; to the Committee on Commerce, Science, and Transportation.

EC–1729. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on grant-in-aid for fisheries for calendar years 1995 and 1996; to the Committee on Commerce, Science, and Transportation.

EC–1730. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the summary of scientific studies of the hatchery system in the Pacific Northwest; to the Committee on Commerce, Science, and Transportation.

EC–1731. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report regarding highly migratory species; to the Committee on Commerce, Science, and Transportation.

EC–1732. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, eight rules; to the Committee on Commerce, Science, and Transportation.

EC–1733. A communication from the Acting Associate Managing Director for Performance Evaluations and Records Management, Federal Communications Commission, transmitting, pursuant to law, seven rules; to the Committee on Commerce, Science, and Transportation.

EC–1734. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The Surface Transportation Safety Act of 1997"; to the Committee on Commerce, Science, and Transportation.

EC–1735. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, one hundred and ten rules; to the Committee on Commerce, Science, and Transportation.

EC–1736. A communication from the Acting Deputy Assistant Administrator of the National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Hawaiian Islands Humpback Whale Marine Sanctuary" (RIN0648–AH99) received on March 28, 1997; to Committee on Commerce, Science, and Transportation.

EC–1737. A communication from the Director of the Office of Global Programs, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "NOAA Climate and Global Change Program" (RIN0648–ZA29) received on April 22, 1997; to Committee on Commerce, Science, and Transportation.

EC–1738. A communication from the National Marine Fisheries Services, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska" received on March 25, 1997; to Committee on Commerce, Science, and Transportation.

EC–1739. A communication from the National Marine Fisheries Services, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, four rules including a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska" received on March 25, 1997; to Committee on Commerce, Science, and Transportation.

EC–1740. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a certification relative to a proposed Manufacturing License Agreement; to the Committee on Foreign Relations.

EC–1741. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-63 adopted by the Council on March 4, 1997; to the Committee on Governmental Affairs.

EC–1742. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report of the annual audit for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1743. A communication from the Acting Assistant Administrator for Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Fisheries of the Northeastern United States" (RIN0648-AI21) received on March 25, 1997; to Committee on Commerce, Science, and Transportation.

EC–1744. A communication from the Acting Assistant Administrator for Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Fisheries of the Caribbean" (RIN0648-AI47) received on March 28, 1997; to Committee on Commerce, Science, and Transportation.

EC–1745. A communication from the Deputy Assistant Administrator for Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, three rules including a

rule concerning the Gulf of Mexico Sustainable Fisheries Program (RIN0648–AI68, AI88); to Committee on Commerce, Science, and Transportation.

EC–1746. A communication from the Director of the Office of Sustainable Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, five rules including a rule concerning fisheries; to Committee on Commerce, Science, and Transportation.

EC–1747. A communication from the Director of the Office of Sustainable Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, twelve rules including a rule concerning fisheries; to Committee on Commerce, Science, and Transportation.

EC–1748. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, five rules including a rule concerning fisheries (RIN 0648–AJ32, AJ78, AJ11, AJ43, AI15); to Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. George T. Babbitt, Jr., [redacted].

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. John J. Batbie, Jr., [redacted].
Brig. Gen. Winfred N. Carroll, [redacted].
Brig. Gen. Dennis M. Gray, [redacted].
Brig. Gen. Grant R. Mulder, [redacted].
Brig. Gen. Virgil J. Toney, Jr., [redacted].

To be brigadier general

Col. William E. Albertson, [redacted].
Col. Paul R. Cooper, [redacted].
Col. Gerald P. Fitzgerald, [redacted].
Col. Patrick J. Gallagher, [redacted].
Col. Edward J. Mechenbier, [redacted].
Col. Jeffrey M. Musfeldt, [redacted].
Col. Allan R. Poulin, [redacted].
Col. Giuseppe P. Santaniello, [redacted].
Col. Robert B. Siegfried, [redacted].
Col. Robert C. Stumpf, [redacted].
Col. William E. Thomlinson, [redacted].

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Tad J. Oelstrom, [redacted].

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Richard B. Myers, [redacted].

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Ralph E. Eberhart, [redacted].

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John B. Hall, Jr., [redacted].

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10 United States Code, section 601:

To be lieutenant general

Maj. Gen. Claudia J. Kennedy, [redacted].

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Tommy R. Franks, [redacted].

The following-named officer for appointment in the Reserve of the U.S. Marine Corps to the grade indicated under title 10, United States Code, section 12203:

To be major general

Maj. Gen. Kevin B. Kuklok, [redacted].

The following-named officers for appointment in the U.S. Marine Corps to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. James R. Battaglini, [redacted].
Col. James E. Cartwright, [redacted].
Col. Stephen A. Cheney, [redacted].
Col. Christopher Cortez, [redacted].
Col. Robert M. Flanagan, [redacted].
Col. John F. Goodman, [redacted].
Col. Gary H. Hughey, [redacted].
Col. Thomas S. Jones, [redacted].
Col. Richard L. Kelly, [redacted].
Col. Ralph E. Parker, Jr., [redacted].
Col. John F. Sattler, [redacted].
Col. William A. Whitlow, [redacted].
Col. Frances C. Wilson, [redacted].

The following-named officer for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral (lower half)

Capt. Karen A. Harmeyer, [redacted].

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Terrence P. Murray, [redacted].

The following-named officer for appointment as Judge Advocate General of the U.S. Navy and for appointment to the grade indicated under title 10, United States Code, section 5148:

To be rear admiral

Capt. John D. Hutson, [redacted].

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Lee F. Gunn, [redacted].

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 25 nomination lists in the Air Force, Army, Marine Corps and Navy which were printed in the CONGRESSIONAL RECORDS of January 7, 28, 30, February 5, 25, 27, March 5, 11, 21, and April 7, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 7, 28, 30, February 5, 25, 27, March 5, 11, 21, and April 7, 1997, at the end of the Senate proceedings.)

In the Army there are 30 promotions to the grade of major (list begins with William M. Austin) (Reference No. 55).

In the Army there are 69 promotions to the grade of colonel (list begins with Richard H. Agosta) (Reference No. 65).

In the Army there are 9 appointments to the grade of colonel (list begins with Richard Cooper) (Reference No. 171).

In the Army there are 66 appointments to the grade of major (list begins with Ida F. Agamy) (Reference No. 178).

In the Navy there are 59 appointments to the grade of lieutenant commander (list begins with Cal D. Astrin) (Reference No. 195).

In the Air Force Reserve there are 83 appointments to the grade of colonel (list begins with Robert N. Agee) (Reference No. 218).

In the Army Reserve there is 1 appointment to the grade of colonel (George B. Garrett) (Reference No. 219).

In the Army Reserve there are 32 appointments to the grade of colonel (list begins with Vincent J. Albanese) (Reference No. 220).

In the Army Reserve there are 7 appointments to the grade of colonel (list begins with James M. Caldwell) (Reference No. 221).

In the Navy there are 29 appointments to the grade of lieutenant and below (list begins with Jason T. Baltimore) (Reference No. 222).

In the Army there are 170 appointments to the rank of lieutenant colonel (list begins with Bryant H. Aldstadt) (Reference No. 224).

In the Air Force there are 22 appointment to the grade of colonel and below (list begins with John L. Bush) (Reference No. 227).

In the Army Reserve there is 1 appointment to the grade of colonel (Larry W. Rascster) (Reference No. 228).

In the Air Force there are 517 appointments to the grade of colonel and below (list begins with Barry S. Abbott) (Reference No. 229).

In the Marine Corps there are 92 appointments to the grade of colonel (list begins with Dirk R. Ahle) (Reference No. 234).

In the Army there is 1 appointment to the grade of lieutenant colonel (Douglas R. Yates) (Reference No. 239).

In the Navy there are 3 appointments to the grade of captain and below (list begins with Edward H. Lundquist) (Reference No. 240).

In the Air Force there are 16 appointments to the grade of colonel and below (list begins with Christopher R. Kleinsmith) (Reference No. 261).

In the Army Reserve there are 18 appointments to the grade of colonel (list begins with Harry L. Bryan, Jr.) (Reference No. 262).

In the Army there is 1 appointment to the grade of major (Phuong T. Pierson) (Reference No. 263).

In the Air Force there are 364 appointments to the grade of colonel and below (list begins with Marilyn S. Abughusson) (Reference No. 264).

In the Air Force there are 11 appointments to the grade of lieutenant colonel and below (list begins with John M. Barker, Jr.) (Reference No. 269).

In the Marine Corps there is 1 appointment to the grade of colonel (Todd H. Griffis) (Reference No. 270).

In the Marine Corps there are 479 appointments to the grade of major (list begins with Roy P. Ackley, Jr.,) (Reference No. 272).

In the Marine Corps there are 326 appointments to the grade of lieutenant colonel (list begins with Robert J. Abblitt) (Reference No. 273).

In the Navy there is 1 appointment to the grade of lieutenant commander (Jamel B. Weatherspoon) (Reference No. 274).

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. McCAIN:

S. 641. A bill to require the Federal Communications Commission to eliminate from its regulations the restrictions on the cross-ownership of broadcasting stations and newspapers; to the Committee on Commerce, Science, and Transportation.

By Mr. TORRICELLI:

S. 642. A bill to amend section 842 of title 18, United States Code, relating to explosive materials; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. GREGG, and Mr. LAUTENBERG):

S. 643. A bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured crop disaster assistance for tobacco; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO:

S. 644. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers; to the Committee on Labor and Human Resources.

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 645. A bill to amend the Federal Water Pollution Control Act to improve the enforcement and compliance programs; to the Committee on Environment and Public Works.

By Mr. FORD (for himself, Mr. HOLLINGS, Mr. HELMS, Mr. FAIRCLOTH, Mr. THURMOND, Mr. COCHRAN, Mr. ROBB, Mr. SESSIONS, Mr. WARNER, Mr. BYRD, Mr. BREAUX, Ms. COLLINS, Ms. LANDRIEU, Mr. MCCONNELL, and Mr. SHELBY):

S. 646. A bill to ensure the competitiveness of the United States textile and apparel industry; to the Committee on Finance.

By Mr. FEINGOLD:

S. 647. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. GORTON (for himself, Mr. ASHCROFT, Mr. MCCAIN, and Mr. LOTT):

S. 648. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself, Mr. GRASSLEY, Mr. GLENN, Mr. D'AMATO, Mr. INOUYE, Mr. ROCKEFELLER, and Mr. MACK):

S. 649. A bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare program; to the Committee on Finance.

By Mr. NICKLES:

S. 650. A bill to amend the Internal Revenue Code of 1986 to reduce estate taxes by providing a 20 percent rate of tax on estates exceeding $1,000,000, and a 30 percent rate of tax on estates exceeding $10,000,000, and for other purposes; to the Committee on Finance.

By Mr. ALLARD:

S.J. Res. 28. A joint resolution proposing an amendment to the Constitution of the United States granting the President the authority to exercise an item veto of individual appropriations in an appropriations bill; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURNS (for himself, Mr. BAUCUS, Ms. COLLINS, Mr. KEMPTHORNE, Mr. FAIRCLOTH, Mr. BINGAMAN, Mr. DEWINE, Mr. HATCH, Mr. GRASSLEY, Mr. WARNER, Mr. CLELAND, Mr. GORTON, Mr. ABRAHAM, Ms. LANDRIEU, Mr. REID, Mr. LIEBERMAN, Mr. DODD, Mr. MURKOWSKI, Mr. D'AMATO, Mr. KENNEDY, Mr. KERREY, Mr. LEVIN, Mr. GRAMM, Mr. KERRY, Mr. LUGAR, and Mr. MOYNIHAN):

S. Res. 78. A resolution to designate April 30, 1997, as "National Erase the Hate and Eliminate Racism Day"; to the Committee on the Judiciary.

By Mr. McCAIN:

S. Con. Res. 23. A concurrent resolution honoring the lifetime achievements of Jackie Robinson; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 641. A bill to require the Federal Communications Commission to eliminate from its regulations the restrictions on the cross-ownership of broadcasting stations and newspapers; to the Committee on Commerce, Science, and Transportation.

THE NEWSPAPER OWNERSHIP ACT

Mr. McCAIN. Mr. President, I am pleased to introduce the Newspaper Ownership Act. This legislation would eliminate one of the most archaic provisions remaining in telecommunications law: that which prohibits a newspaper from being co-owned with a local radio or television station.

Mr. President, at a time when the number of outlets for news, information, and entertainment has expanded exponentially, and at a time when other restrictions on ownership of mass media companies have been rethought and liberalized one fossil from the age of Walter Winchell and the Dumont Network remains—the law that keeps one entity from owning both a newspaper and a radio or TV station in the same market. It's time to finally get rid of this relic.

The newspaper/broadcast cross-ownership prohibition dates from a day when there was a realistic fear that common control of both media in the same locale could result in the public's receiving only one point of view on important issues.

Radio and television outlets abound. Many are supplemented by multichannel news and entertainment outlets like cable TV and satellite broadcasting. Even in the smallest markets, diversity of viewpoints is as close as clicking on the Internet.

It is not surprising that, in this era of media diversity, newspapers have found it tough going, their numbers steadily declining over the years. In this environment, the infusion of resources that would result from allowing them to be owned by local radio and TV station owners would be most beneficial. Moreover, is there any reason to think that an attempt to make a newspaper walk in the lock-step with a co-owned broadcast station would not be readily detected by the public, and rejected in favor of more diverse sources of information? It is difficult to believe that, given the almost bewildering variety in the numbers and types of information sources available in even the smallest markets, any seeker of information could be either so passive or so defenseless.

Mr. President, I introduce this bill in an effort to engage informed debate on this outdated restriction. I ask unanimous consent that the text of the bill be printed on the RECORD.

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

S. 641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CROSS-OWNERSHIP OF BROADCASTING AND NEWSPAPERS.

(a) RULE CHANGES REQUIRED.—The Federal Communications Commission shall modify

section 73.3555 of its regulations (47 C.F.R. 73.3555) by eliminating any provisions limiting the granting or renewal of an AM, FM, or TV broadcast station license to any party (including parties under common control) on the basis of the ownership, operation, or control by such party of a daily newspaper.

(b) DEADLINE FOR ACTION.—The Federal Communications Commission shall complete all action necessary to complete the modifications required by subsection (a) within 90 days after the date of enactment of this Act.

By Mr. TORRICELLI:

S. 642. A bill to amend section 842 of title 18, United States Code, relating to explosive materials; to the Committee on the Judiciary.

THE EXPLOSIVES PROTECTION ACT OF 1997

• Mr. TORRICELLI. Mr. President, I introduce the Explosives Protection Act of 1997. I do so just over two years after the tragic bombing of the federal building in Oklahoma City, because I hope that this bill will, in some small way, prevent future bombings—whether by terrorists of symbolic targets, malcontents of random ones, or even spouses involved in marital disputes.

This bill, while not directly related to the circumstances in Oklahoma City, is a first step towards protecting the American people from those who would use explosives to do them harm.

Not many people realize, Mr. President, just how few restrictions on the use and sale of explosives really exist. While we have increasingly restricted the number of people who can obtain and use a firearm, we have been lax in extending these prohibitions to explosives.

For instance, while we prohibit illegal aliens from obtaining a gun, we allow them to obtain explosives without restriction. And this same divergence applies to those who have been dishonorably discharged from the armed forces, those who have renounced U.S. citizenship, people who have acted in such a way as to have restraining orders issued against them, and those with domestic violence convictions. Each of these categories of persons are prohibited from obtaining firearms, but face no such prohibition on obtaining explosive material.

Additionally, while this Congress has been moving to prevent nonimmigrant legal aliens from obtaining a gun, in response to the recent shooting at the Empire State Building, we have neglected to work towards this same goal with regards to explosives.

Mr. President, many of these differences in the law are simply oversights—Congress has often acted to limit the use and sale of firearms, and has neglected to bring explosives law into line. And in so doing, we have made it all too easy for many of the most dangerous or least accountable members of society to obtain materials which can result in an equal or even greater loss of life.

Congress has already made the determination that certain members of society should not have access to firearms, and the same logic clearly applies to dangerous and destructive explosive materials. It is time to bring the explosives law into line with gun laws, and this is all my bill does.

Specifically, my bill would take the list of categories of people who cannot obtain firearms and would add any of those categories not currently covered under the explosives law. Additionally, my bill would insert the Durbin-Kennedy nonimmigrant provisions into the law to protect us from persons entering the country and quickly moving to purchase and use deadly explosive material.

Mr. President, this is a simple bill meant only to correct longstanding gaps and loopholes in current law. I urge my colleagues to support the bill, and I hope we can quickly move to get this passed and protect Americans from future acts of explosive destruction.

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. 642

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 "Explosives Protection Act of 1997".

SEC 2. PROHIBITIONS RELATING TO EXPLOSIVE MATERIALS.

(a) PROHIBITION OF SALE, DELIVERY, OR TRANSFER OF EXPLOSIVE MATERIALS TO CERTAIN INDIVIDUALS.—Section 842 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) PROHIBITION OF SALE, DELIVERY, OR TRANSFER OF EXPLOSIVE MATERIALS TO CERTAIN INDIVIDUALS.—It shall be unlawful for any licensee to knowingly sell, deliver, or transfer any explosive materials to any individual who—

"(1) is less than 21 years of age;

"(2) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(3) is a fugitive from justice;

"(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(5) has been adjudicated as a mental defective or has been committed to any mental institution;

"(6) being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (*l*), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

"(7) has been discharged from the Armed Forces under dishonorable conditions;

"(8) having been a citizen of the United States, has renounced his citizenship;

"(9) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

"(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(10) has been convicted in any court of a misdemeanor crime of domestic violence.".

(b) PROHIBITION ON SHIPPING, TRANSPORTING, POSSESSION, OR RECEIPT OF EXPLOSIVES BY CERTAIN INDIVIDUALS.—Section 842 of title 18, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) PROHIBITION ON SHIPPING, TRANSPORTING, POSSESSION, OR RECEIPT OF EXPLOSIVES BY CERTAIN INDIVIDUALS.—It shall be unlawful for any person to ship or transport in interstate or foreign commerce, or possess, in or affecting commerce, any explosive, or to receive any explosive that has been shipped or transported in interstate or foreign commerce, if that person—

"(1) is less than 21 years of age;

"(2) has been convicted in any court, of a crime punishable by imprisonment for a term exceeding 1 year;

"(3) is a fugitive from justice;

"(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(5) has been adjudicated as a mental defective or who has been committed to a mental institution;

"(6) being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (*l*), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

"(7) has been discharged from the Armed Forces under dishonorable conditions;

"(8) having been a citizen of the United States, has renounced his citizenship; or

"(9) is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(10) has been convicted in any court of a misdemeanor crime of domestic violence.".

(c) EXCEPTIONS AND WAIVER FOR CERTAIN INDIVIDUALS.—Section 842 of title 18, United

States Code, is amended by adding at the end the following:

"(l) EXCEPTIONS AND WAIVER FOR CERTAIN INDIVIDUALS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) EXCEPTIONS.—Subsections (d)(5)(B) and (p)(5)(B) do not apply to any alien who has been lawfully admitted to the United States pursuant to a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes;

"(B) a foreign military personnel on official assignment to the United States;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) WAIVER.—

"(A) IN GENERAL.—Any individual who has been admitted to the United States under a nonimmigrant visa and who is not described in paragraph (2), may receive a waiver from the applicability of subsection (d)(5)(B) or (p)(5)(B), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (B); and

"(ii) the Attorney General approves the petition.

"(B) PETITIONS.—Each petition under subparagraph (A)(i) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to engage in any activity prohibited under subsection (d) or (p), as applicable, and certifying that the petitioner would not otherwise be prohibited from engaging in that activity under subsection (d) or (p), as applicable.".●

By Mr. DURBIN (for himself, Mr. GREGG, and Mr. LAUTENBERG):

S. 643. A bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured crop disaster assistance for tobacco; to the Committee on Agriculture, Nutrition, and Forestry.

THE TOBACCO SUBSIDY REDUCTION ACT OF 1997

Mr. DURBIN. Mr. President, people often ask their elected officials, "If smoking is so dangerous, why does Congress subsidize tobacco?" Today, my colleagues Senator GREGG of New Hampshire and Senator LAUTENBERG of New Jersey are joining me in introducing legislation that will give my colleagues an answer to this question.

The Tobacco Subsidy Reduction Act of 1997 ends the largest direct federal subsidy of tobacco. Specifically, this legislation prohibits the federal government from offering crop insurance or providing crop insurance subsidies for tobacco. For consistency, it also prohibits payments for tobacco under the Non-Insured Disaster Assistance Program, an alternative risk management program created in the 1996 Farm Bill for crops not eligible for the crop insurance program. I ask that the full text of the legislation appear in the RECORD following my statement.

Tobacco growing and processing is one of the most lucrative industries in America. To protect their profits despite the health dangers of their product, tobacco growers created the "no net cost" price support program. But a variety of taxpayer subsidies to tobacco remain, including crop insurance, extension services, and other programs assisting tobacco production and sales.

Last year, the federal government spent $98 million on tobacco-related subsidies and programs. These costs include $68 million for crop insurance losses beyond the premiums tobacco farmers paid, and $11 million for overhead costs of administering the crop insurance program for tobacco crops. This year, federal tobacco-related subsidies are estimated to amount to $67 million, including $48 million related to crop insurance.

In an era of tight budgets, there are better uses for this money. It makes no budgetary sense to subsidize a crop that causes an enormous amount of disease, disability, and death.

This amendment will not affect the tobacco price support program, so it will not drive any tobacco farmers out of business. It will merely get the federal government out of the business of paying for these specific subsidies for this deadly crop.

Cigarettes and smokeless tobacco products kill more than 400,000 Americans every year of cancer, heart disease, and other illnesses. These products also disable hundreds of thousands of other Americans through emphysema and other respiratory illnesses. It's time to take another step toward getting the federal government out of this business.

I invite my colleagues to cosponsor the Tobacco Subsidy Reduction Act and tell their constituents that they are working to cut government tobacco subsidies.

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. 643

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 "Tobacco Subsidy Reduction Act of 1997".

SEC. 2. PROHIBITION OF FEDERAL INSURANCE, REINSURANCE, OR NONINSURED CROP DISASTER ASSISTANCE FOR TOBACCO.

(a) CROP INSURANCE.—

(1) DEFINITION OF AGRICULTURAL COMMODITY.—Section 518 of the Federal Crop Insurance Act (7 U.S.C. 1518) is amended—

(A) by striking the section heading and all that follows through "as used in this title, means" and inserting the following:

"SEC. 518. DEFINITION OF AGRICULTURAL COMMODITY.

"(a) DEFINITION.—In this title, the term 'agricultural commodity' means";

(B) by striking "tobacco,"; and

(C) by adding at the end the following:

"(b) EXCEPTION.—In this title, the term 'agricultural commodity' does not include tobacco. The Corporation may not insure, provide reinsurance for insurers of, or pay any part of the premium related to the coverage of a crop of tobacco.".

(2) CONFORMING AMENDMENTS.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(A) in the first sentence of subsection (a)(2), by striking "cases of tobacco and" and inserting "case of"; and

(B) in subsection (h)(9)(A), by inserting ", excluding tobacco," after "commodity".

(b) NONINSURED CROP DISASTER ASSISTANCE.—Section 196(a)(2) of Agricultural Market Transition Act (7 U.S.C. 7333(a)(2)) is amended by adding at the end the following:

"(C) CROPS SPECIFICALLY EXCLUDED.—The term 'eligible crop' does not include tobacco. The Secretary may not make assistance available under this section to cover losses to a crop of tobacco.".

(c) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall apply with respect to the 1997 and subsequent crops of tobacco.

EXISTING CONTRACTS.—The amendments made by this section shall not apply to a contract of insurance of the Federal Crop Insurance Corporation, or a contract of insurance reinsured by the Corporation, in existence on the date of enactment of this Act.

By Mr. D'AMATO:

S. 644. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers; to the Committee on Labor and Human Resources.

THE PATIENT ACCESS TO RESPONSIBLE CARE ACT

Mr. D'AMATO. Mr. President, I am introducing this bill in an effort to protect the vast majority of patients in this country. Currently, in order to control the cost of health care, managed care organizations often place limits on the delivery of necessary medical services. I believe American families must be guaranteed basic health rights when dealing with HMOs and managed care providers. The bottom line in medicine must be the health of the patient, not the profits of any given company. This legislation, the Patient Access to Responsible Care Act, will meet this obligation.

With this Act, I seek to establish basic protections for patients and health care providers in order to ensure the best medical care for patients. I envision these basic provisions giving Americans a set of health rights, in the form of a Patients' Bill of Rights, when dealing with HMOs and other health insurance plans. These rights include:

The Right to Choose Your Own Doctor. This bill will allow patients to select their own doctors within their plan and change their selection of doctor as the patient feels necessary. It also gives patients, who are in managed care-only health plans, the option to see doctors outside their HMOs for an additional fee.

The Right to Quality Health Care. This legislation will ensure that doctors are not prohibited or limited in any way from discussing a patient's health status, treatment options or any other medical communications. It also stops HMOs from using financial incentives for doctors to deny or limit care to patients. We must make sure that health care decisions are based on sound medical criteria and not the financial bottom line.

The Right to Justice. This Act closes loopholes in current law that allow the vast majority of health insurance plans to escape legal responsibility for decisions causing needless injury or death to a patient. Currently, self-insured managed care plans cannot be held liable for a patient's wrongful death or personal injuries resulting from plan policies even when those policies directly contributed to the patient's death or injury. This is wrong and this bill would guarantee that if HMO policies hurt patients, the HMO will be held accountable for their actions.

In addition, within a patient's health plan, this bill guarantees patients can quickly and easily appeal adverse decisions by their manage care plans. We've heard too many horror stories of patients who have been denied treatment by a health plans' policy. In addition, the appeals process is too bureaucratic and lengthy, sometimes resulting in tragic consequences. We must always put the quality of patient care first.

The Right to Full Disclosure. This bill also provides that health insurance plans make available to each patient a list of what health care is covered, what are the plans costs and profits, and how much is the plan spending on marketing and other non-medical costs. This is a sort of "truth-in-lending" statement for health plans.

When I first considered introducing this Patients' Bill of Rights, I was concerned about how prevalent a need there was for this type of legislation. I quickly found numerous instances where patients were suffering adverse outcomes from poor medical decisions made by managed care companies. The most publicized recent case is Corcoran versus United Health Care. In this case, Ms. Corcoran, a Louisiana woman with a high risk pregnancy, was admitted to a hospital under her physician's orders. She was discharged from the hospital after her health plan refused to pay for her care. The health plan would only authorize a visiting nurse to check on the woman at home. At one point, when the nurse was absent, the unborn child went into distress and died. The U.S. Court of Appeals for the 5th Circuit ruled that the woman had no right to sue the HMO for damages because the insurance plan was governed under ERISA laws. These laws preempt state insurance laws allowing patients to seek due process. Americans cannot expect health care with this type of managed health care.

As I said before, there are numerous instances where managed care is revealed to be ruled by a company's profits. In New York, a diabetic developed an infection in his foot that had become gangrenous and had spread all the way to his groin. Almost his entire leg was infected and the blood vessels clogged. His doctor, a cardio-vascular specialist, feared that the gentleman could lose his foot if treatment was not initiated immediately. So, as a responsible physician, he admitted his patient to the hospital where he was immediately treated with intravenous antibiotics to combat the infection. Once in the hospital, the gentleman's HMO contacted the doctor to find out how long he anticipated the hospital stay would be. Since the man had clogged blood vessels and had to undergo a vascular bypass in order to be treated, the doctor estimated a stay between 10 and 15 days.

Upon learning this, an HMO official went to the gentleman's hospital room, and without even notifying the doctor, told the man that "he could watch Oprah and be treated as well from home with a visiting nurse." The gentleman's doctor repeatedly argued with the HMO that it was not medically safe to release his patient from the hospital. But, with fluid still draining from his wounds and the doctor still protesting against the early discharge, the gentleman was sent home just a week after being admitted. The next day, the HMO sent a nurse—not a cardiovascular specialist or even a doctor, but a nurse—to his home to evaluate his condition and to show his wife how to change the dressing covering his wounds. With this state of affairs, the man eventually required surgery. With the early discharge and the lack of responsible care on the part of the HMO, the surgery had to be postponed because the patient's blood had become too thin to safely perform surgery.

In Georgia, a 2-year old boy was suffering from a high fever which did not respond to medication. His parents followed the insurance company's instructions for pre-authorization of emergency room care and attempted to drive 42 miles to the preferred hospital. The couple passed five emergency rooms along the way. Before they could reach the preferred hospital, their son went into cardiac arrest and stopped breathing. The child slipped into a coma, developed gangrene in his extremities, and subsequently lost his arms and legs to amputation.

In California, a young girl was diagnosed with Wilm's tumor, a rare childhood kidney cancer. The families new HMO required that the girl's surgery be performed by a surgeon within the managed care plan. None of the plan's surgeons had any experience with Wilm's tumor. The family chose to use an expert surgeon outside of the plan who had a proven track record with this type of tumor. The surgery was a success and the child has fully recovered. However, the HMO denied coverage for going outside of their system causing the family to enter a 2 year legal battle with the plan. In the first ever enforcement action against an HMO for a patient complaint, the state imposed a $500,000 fine against the plan for denying appropriate medical care.

In Colorado, a 75-year old woman was diagnosed with Kidney Cancer, but her plan refused to authorize surgery to remove the kidney and tumor of such an elderly woman. The plan only relented and allowed the surgery to be performed when a Congressman finally intervened on her behalf. The lady's cancer is now in full remission.

In Texas, a 17-year old Texas girl was critically injured in a head-on car crash that left her with severe head trauma, a broken back, a crushed pelvis, and numerous other injuries. She eventually pulled through, but her health plan refused to pay $40,000 of her hospital bill because her family had not received "prior authorization" for her emergency admission to the hospital—even though the hospital was a preferred provider for the plan.

These stories are not isolated incidents. They do not happen just in New York and Georgia, but across the nation. They speak for the thousands of patients across the country who have been denied access to the responsible care they need and deserve.

Mr. President, I believe it would be beneficial for my colleagues if I summarized what rights this bill will provide for patients across the country and how this bill meets those rights.

First of all, we are trying to increase patient access to plans and doctors. Patients, including those in under served inner-city and rural areas, are ensured their choice of doctor within the plan. The bill will ensure that health plans have enough doctors to guarantee this choice. Patients will also have access to any specialist required by their medical condition within the plan. In addition, patients are to have emergency health care without the burden of seeking prior approval from their health plan.

Also in this Act, patients will have an expanded choice of health care providers inside and outside of the network. People can either go through the network, or choose a plan that allows them to go out of the network, although at a higher cost. They will be allowed to select their own personal

doctors within their plan and change their selection as the patient feels necessary. Patients will also be given the option to choose a health insurance plan that covers health care options not offered in the network. The managed care plan would reimburse the costs of these services based on rates consistent with those negotiated under the plan. Patients would be responsible for any remaining costs.

This bill will include a prohibition on gag rules. Patients are ensured that the health plan will not in any way limit doctors from discussing the patient's health status, treatment options or any other medical communication. Health plans can not offer any incentives, financial or otherwise, for doctors to deny or limit any health care.

In addition, this Bill of Rights forces HMOs to be responsible for their decisions. Currently, HMOs can not be held liable for wrongful death or personal injury suffered by the medical decision making policies of the plan, action may only be brought against the doctor and the hospital. Even if the HMO or the plan had in place a policy which directly contributed to death or injury of a patient, they are protected. This bill changes that by ensuring that managed care plans are held responsible for any medical decisions that they make. This bill says that if you make a medical decision, no matter who you are, you will be responsible for your actions. ERISA was never intended to be used as a shield for health plans providing negligent medical care. Also, there will be a provision providing due process on patient appeals claims made to their heath plans. Within the plan, patients will be guaranteed the ability to quickly and easily appeal adverse decisions.

The act will establish an information disclosure provision allowing patients to make informed decisions about which health plan would be best for them. This is a sort of "Truth in Lending" statement for HMO's. Every health plan will be required to disclose information about plan benefits, appeals procedures, plan performance measures, history of patient satisfaction, as well as the number and type of health care providers participating in the network. Based on this information, patients will be guaranteed the ability to make informed decisions about the quality of their health care and the managed care companies they choose from.

In addition, there will be doctor and patient protections from discrimination. The provision allows any doctor who meets a clear set of standards the opportunity to be a member of any managed care plan. In addition, patients will not be discriminated against based on their personal background or preexisting conditions, such as long-term and costly diseases.

Mr. President, we have an obligation to set minimum health care standards in the private sector to protect American families and ensure they have access to quality health care. We cannot allow the profits of the company to get in the way of patient health.

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. 644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patient Access to Responsible Care Act of 1997".

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

Sec. 1. Short title; table of contents.
Sec. 2. Patient protection standards under the Public Health Service Act.
"PART C—PATIENT PROTECTION STANDARDS
"Sec. 2770. Notice; additional definitions; construction.
"Sec. 2771. Enrollee access to care.
"Sec. 2772. Enrollee choice of health professionals and providers.
"Sec. 2773. Nondiscrimination against enrollees and in the selection of health professionals; equitable access to networks.
"Sec. 2774. Prohibition of interference with certain medical communications.
"Sec. 2775. Development of plan policies.
"Sec. 2776. Due process for enrollees.
"Sec. 2777. Due process for health professionals and providers.
"Sec. 2778. Information reporting and disclosure.
"Sec. 2779. Confidentiality; adequate reserves.
"Sec. 2780. Quality improvement program.
Sec. 3. Patient protection standards under the Employee Retirement Income Security Act of 1974.
Sec. 4. Non-preemption of State law respecting liability of group health plans.

SEC. 2. PATIENT PROTECTION STANDARDS UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) PATIENT PROTECTION STANDARDS.—Title XXVII of the Public Health Service Act is amended—

(1) by redesignating part C as part D, and

(2) by inserting after part B the following new part:

"PART C—PATIENT PROTECTION STANDARDS

"SEC. 2770. NOTICE; ADDITIONAL DEFINITIONS; CONSTRUCTION.

"(a) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this part as if such section applied to such issuer and such issuer were a group health plan.

"(b) ADDITIONAL DEFINITIONS.—For purposes of this part:

"(1) ENROLLEE.—The term 'enrollee' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

"(2) HEALTH PROFESSIONAL.—The term 'health professional' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

"(3) NETWORK.—The term 'network' means, with respect to a health insurance issuer offering health insurance coverage, the participating health professionals and providers through whom the plan or issuer provides health care items and services to enrollees.

"(4) NETWORK COVERAGE.—The term 'network coverage' means health insurance coverage offered by a health insurance issuer that provides or arranges for the provision of health care items and services to enrollees through participating health professionals and providers.

"(5) PARTICIPATING.—The term 'participating' means, with respect to a health professional or provider, a health professional or provider that provides health care items and services to enrollees under network coverage under an agreement with the health insurance issuer offering the coverage.

"(6) PRIOR AUTHORIZATION.—The term 'prior authorization' means the process of obtaining prior approval from a health insurance issuer as to the necessity or appropriateness of receiving medical or clinical services for treatment of a medical or clinical condition.

"(7) PROVIDER.—The term 'provider' means a health organization, health facility, or health agency that is licensed, accredited, or certified to provide health care items and services under applicable State law.

"(8) SERVICE AREA.—The term 'service area' means, with respect to a health insurance issuer with respect to health insurance coverage, the geographic area served by the issuer with respect to the coverage.

"(9) UTILIZATION REVIEW.—The term 'utilization review' means prospective, concurrent, or retrospective review of health care items and services for medical necessity, appropriateness, or quality of care that includes prior authorization requirements for coverage of such items and services.

"(c) NO REQUIREMENT FOR ANY WILLING PROVIDER.—Nothing in this part shall be construed as requiring a health insurance issuer that offers network coverage to include for participation every willing provider or health professional who meets the terms and conditions of the plan or issuer.

"SEC. 2771. ENROLLEE ACCESS TO CARE.

"(a) GENERAL ACCESS.—

"(1) IN GENERAL.—Subject to paragraphs (2), and (3), a health insurance issuer shall establish and maintain adequate arrangements, as defined by the applicable State authority, with a sufficient number, mix, and distribution of health professionals and providers to assure that covered items and services are available and accessible to each enrollee under health insurance coverage—

"(A) in the service area of the issuer;

"(B) in a variety of sites of service;

"(C) with reasonable promptness (including reasonable hours of operation and after-hours services);

"(D) with reasonable proximity to the residences and workplaces of enrollees; and

"(E) in a manner that—

"(i) takes into account the diverse needs of enrollees, and

"(ii) reasonably assures continuity of care.

For a health insurance issuer that serves a rural or medically underserved area, the issuer shall be treated as meeting the requirement of this subsection if the issuer has

arrangements with a sufficient number, mix, and distribution of health professionals and providers having a history of serving such areas. The use of telemedicine and other innovative means to provide covered items and services by a health insurance issuer that serves a rural or medically underserved area shall also be considered in determining whether the requirement of this subsection is met.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a health insurance issuer to have arrangements that conflict with its responsibilities to establish measures designed to maintain quality and control costs.

"(3) DEFINITIONS.—For purposes of paragraph (1):

"(A) MEDICALLY UNDERSERVED AREA.—The term 'medically underserved area' means an area that is designated as a health professional shortage area under section 332 of the Public Health Service Act or as a medically underserved area for purposes of section 330 or 1302(7) of such Act.

"(B) RURAL AREA.—The term 'rural area' means an area that is not within a Standard Metropolitan Statistical Area or a New England County Metropolitan Area (as defined by the Office of Management and Budget).

"(b) EMERGENCY AND URGENT CARE.—

"(1) IN GENERAL.—A health insurance issuer shall—

"(A) assure the availability and accessibility of medically or clinically necessary emergency services and urgent care services within the service area of the issuer 24 hours a day, 7 days a week;

"(B) require no prior authorization for items and services furnished in a hospital emergency department to an enrollee (without regard to whether the health professional or hospital has a contractual or other arrangement with the issuer) with symptoms that would reasonably suggest to a prudent layperson an emergency medical condition (including items and services described in subparagraph (C)(iii));

"(C) cover (and make reasonable payments for)—

"(i) emergency services,

"(ii) services that are not emergency services but are described in subparagraph (B),

"(iii) medical screening examinations and other ancillary services necessary to diagnose, treat, and stabilize an emergency medical condition, and

"(iv) urgent care services, without regard to whether the health professional or provider furnishing such services has a contractual (or other) arrangement with the issuer; and

"(D) make prior authorization determinations for—

"(i) services that are furnished in a hospital emergency department (other than services described in clauses (i) and (iii) of subparagraph (C)), and

"(ii) urgent care services, within the time periods specified in (or pursuant to) section 2776(a)(8).

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) EMERGENCY MEDICAL CONDITION.—The term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention could reasonably be expected to result in—

"(i) placing the patient's health in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(B) EMERGENCY SERVICES.—The term 'emergency services' means health care items and services that are necessary for the diagnosis, treatment, and stabilization of an emergency medical condition.

"(C) URGENT CARE SERVICES.—The term 'urgent care services' means health care items and services that are necessary for the treatment of a condition that—

"(i) is not an emergency medical condition,

"(ii) requires prompt medical or clinical treatment, and

"(iii) poses a danger to the patient if not treated in a timely manner, as defined by the applicable State authority in consultation with relevant treating health professionals or providers.

"(c) SPECIALIZED SERVICES.—

"(1) IN GENERAL.—A health insurance issuer offering network coverage shall demonstrate that enrollees have access to specialized treatment expertise when such treatment is medically or clinically indicated in the professional judgment of the treating health professional, in consultation with the enrollee.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'specialized treatment expertise' means expertise in diagnosing or treating—

"(A) unusual diseases or conditions, or

"(B) diseases and conditions that are unusually difficult to diagnose or treat.

"(d) INCENTIVE PLANS.—

"(1) IN GENERAL.—In the case of a health insurance issuer that offers network coverage, any health professional or provider incentive plan operated by the issuer with respect to such coverage shall meet the following requirements:

"(A) No specific payment is made directly or indirectly under the plan to a professional or provider or group of professionals or providers as an inducement to reduce or limit medically necessary services provided with respect to a specific enrollee.

"(B) If the plan places such a professional, provider, or group at substantial financial risk (as determined by the Secretary) for services not provided by the professional, provider, or group, the issuer—

"(i) provides stop-loss protection for the professional, provider, or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of professionals or providers placed at such substantial financial risk in the group or under the coverage and the number of individuals enrolled with the issuer who receive services from the professional, provider, or group, and

"(ii) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the issuer to determine the degree of access of such individuals to services provided by the issuer and satisfaction with the quality of such services.

"(C) The issuer provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this paragraph.

"(2) In this subsection, the term 'health professional or provider incentive plan' means any compensation arrangement between a health insurance issuer and a health professional or provider or professional or provide group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the issuer.

"SEC. 2772. ENROLLEE CHOICE OF HEALTH PROFESSIONALS AND PROVIDERS.

"(a) CHOICE OF PERSONAL HEALTH PROFESSIONAL.—A health insurance issuer shall permit each enrollee under network coverage to—

"(1) select a personal health professional from among the participating health professionals of the issuer, and

"(2) change that selection as appropriate.

"(b) POINT-OF-SERVICE OPTION.—

"(1) IN GENERAL.—If a health insurance issuer offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health professionals and providers who are members of a network of health professionals and providers who have entered into a contract with the issuer to provide such services, the issuer shall also offer to such enrollees (at the time of enrollment) the option of health insurance coverage which provides for coverage of such services which are not furnished through health professionals and providers who are members of such a network.

"(2) FAIR PREMIUMS.—The amount of any additional premium required for the option described in paragraph (1) may not exceed an amount that is fair and reasonable, as established by the applicable State authority, in consultation with the National Association of Insurance Commissioners, based on the nature of the additional coverage provided.

"(3) COST-SHARING.—Under the option described in paragraph (1), the health insurance coverage shall provide for reimbursement rates for covered services offered by health professionals and providers who are not participating health professionals or providers that are not less than the reimbursement rates for covered services offered by participating health professionals and providers. Nothing in this paragraph shall be construed as protecting an enrollee against balance billing by a health professional or provider that is not a participating health professional or provider.

"(c) CONTINUITY OF CARE.—A health insurance issuer offering network coverage shall—

"(1) ensure that any process established by the issuer to coordinate care and control costs does not create an undue burden, as defined by the applicable State authority, for enrollees with special health care needs or chronic conditions;

"(2) ensure direct access to relevant specialists for the continued care of such enrollees when medically or clinically indicated in the judgment of the treating health professional, in consultation with the enrollee;

"(3) in the case of an enrollee with special health care needs or a chronic condition, determine whether, based on the judgment of the treating health professional, in consultation with the enrollee, it is medically or clinically necessary to use a specialist or a care coordinator from an interdisciplinary team to ensure continuity of care; and

"(4) in circumstances under which a change of health professional or provider might disrupt the continuity of care for an enrollee, such as—

"(A) hospitalization, or

"(B) dependency on high-technology home medical equipment,

provide for continued coverage of items and services furnished by the health professional or provider that was treating the enrollee before such change for a reasonable period of time.

For purposes of paragraph (4), a change of health professional or provider may be due to changes in the membership of an issuer's health professional and provider network, changes in the health coverage made available by an employer, or other similar circumstances.

"SEC. 2773. NONDISCRIMINATION AGAINST ENROLLEES AND IN THE SELECTION OF HEALTH PROFESSIONALS; EQUITABLE ACCESS TO NETWORKS.

"(a) NONDISCRIMINATION AGAINST ENROLLEES.—No health insurance issuer may discriminate (directly or through contractual arrangements) in any activity that has the effect of discriminating against an individual on the basis of race, national origin, gender, language, socioeconomic status, age, disability, health status, or anticipated need for health services.

"(b) NONDISCRIMINATION IN SELECTION OF NETWORK HEALTH PROFESSIONALS.—A health insurance issuer offering network coverage shall not discriminate in selecting the members of its health professional network (or in establishing the terms and conditions for membership in such network) on the basis of—

"(1) the race, national origin, gender, age, or disability (other than a disability that impairs the ability of an individual to provide health care services or that may threaten the health of enrollees) of the health professional; or

"(2) the health professional's lack of affiliation with, or admitting privileges at, a hospital (unless such lack of affiliation is a result of infractions of quality standards and is not due to a health professional's type of license).

"(c) NONDISCRIMINATION IN ACCESS TO HEALTH PLANS.—While nothing in this section shall be construed as an 'any willing provider' requirement (as referred to in section 2770(c)), a health insurance issuer shall not discriminate in participation, reimbursement, or indemnification against a health professional, who is acting within the scope of the health professional's license or certification under applicable State law, solely on the basis of such license or certification.

"SEC. 2774. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

"(a) IN GENERAL.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a health insurance issuer and a health professional shall not prohibit or restrict the health professional from engaging in medical communications with his or her patient.

"(b) NULLIFICATION.—Any contract provision or agreement described in subsection (a) shall be null and void.

"(c) MEDICAL COMMUNICATION DEFINED.—For purposes of this section, the term 'medical communication' means a communication made by a health professional with a patient of the health professional (or the guardian or legal representative of the patient) with respect to—

"(1) the patient's health status, medical care, or legal treatment options;

"(2) any utilization review requirements that may affect treatment options for the patient; or

"(3) any financial incentives that may affect the treatment of the patient.

"SEC. 2775. DEVELOPMENT OF PLAN POLICIES.

"A health insurance issuer that offers network coverage shall establish mechanisms to consider the recommendations, suggestions, and views of enrollees and participating health professionals and providers regarding—

"(1) the medical policies of the issuer (including policies relating to coverage of new technologies, treatments, and procedures);

"(2) the utilization review criteria and procedures of the issuer;

"(3) the quality and credentialing criteria of the issuer; and

"(4) the medical management procedures of the issuer.

"SEC. 2776. DUE PROCESS FOR ENROLLEES.

"(a) UTILIZATION REVIEW.—The utilization review program of a health insurance issuer shall—

"(1) be developed (including any screening criteria used by such program) with the involvement of participating health professionals and providers;

"(2) to the extent consistent with the protection of proprietary business information (as defined for purposes of section 552 of title 5, United States Code) release, upon request, to affected health professionals, providers, and enrollees the screening criteria, weighting elements, and computer algorithms used in reviews and a description of the method by which they were developed;

"(3) uniformly apply review criteria that are based on sound scientific principles and the most recent medical evidence;

"(4) use licensed, accredited, or certified health professionals to make review determinations (and for services requiring specialized training for their delivery, use a health professional who is qualified through equivalent specialized training and experience);

"(5) subject to reasonable safeguards, disclose to health professionals and providers, upon request, the names and credentials of individuals conducting utilization review;

"(6) not compensate individuals conducting utilization review for denials of payment or coverage of benefits;

"(7) comply with the requirement of section 2771 that prior authorization not be required for emergency and related services furnished in a hospital emergency department;

"(8) make prior authorization determinations—

"(A) in the case of services that are urgent care services described in section 2771(b)(2)(C), within 30 minutes of a request for such determination, and

"(B) in the case of other services, within 24 hours after the time of a request for determination;

"(9) include in any notice of such determination an explanation of the basis of the determination and the right to an immediate appeal;

"(10) treat a favorable prior authorization review determination as a final determination for purposes of making payment for a claim submitted for the item or service involved unless such determination was based on false information knowingly supplied by the person requesting the determination;

"(11) provide timely access, as defined by the applicable State authority, to utilization review personnel and, if such personnel are not available, waives any prior authorization that would otherwise be required; and

"(12) provide notice of an initial determination on payment of a claim within 30 days after the date the claim is submitted for such item or service, and include in such notice an explanation of the reasons for such determination and of the right to an immediate appeal.

"(b) APPEALS PROCESS.—A health insurance issuer shall establish and maintain an accessible appeals process that—

"(1) reviews an adverse prior authorization determination—

"(A) for urgent care services, described in subsection (a)(8)(A), within 1 hour after the time of a request for such review, and

"(B) for other services, within 24 hours after the time of a request for such review;

"(2) reviews an initial determination on payment of claims described in subsection (a)(12) within 30 days after the date of a request for such review;

"(3) provides for review of determinations described in paragraphs (1) and (2) by an appropriate clinical peer professional who is in the same or similar specialty as would typically provide the item or service involved (or another licensed, accredited, or certified health professional acceptable to the plan and the person requesting such review); and

"(4) provides for review of—

"(A) the determinations described in paragraphs (1), (2), and (3), and

"(B) enrollee complaints about inadequate access to any category or type of health professional or provider in the network of the issuer or other matters specified by this part,

by an appropriate clinical peer professional who is in the same or similar specialty as would typically provide the item or service involved (or another licensed, accredited, or certified health professional acceptable to the issuer and the person requesting such review) that is not involved in the operation of the plan or in making the determination or policy being appealed.

The procedures specified in this subsection shall not be construed as preempting or superseding any other reviews or appeals an issuer is required by law to make available.

"SEC. 2777. DUE PROCESS FOR HEALTH PROFESSIONALS AND PROVIDERS.

"(a) IN GENERAL.—A health insurance issuer with respect to its offering of network coverage shall—

"(1) allow all health professionals and providers in its service area to apply to become a participating health professional or provider during at least one period in each calendar year;

"(2) provide reasonable notice to such health professionals and providers of the opportunity to apply and of the period during which applications are accepted;

"(3) provide for review of each application by a credentialing committee with appropriate representation of the category or type of health professional or provider;

"(4) select participating health professionals and providers based on objective standards of quality developed with the suggestions and advice of professional associations, health professionals, and providers;

"(5) make such selection standards available to—

"(A) those applying to become a participating provider or health professional;

"(B) health plan purchasers, and

"(C) enrollees;

"(6) when economic considerations are taken into account in selecting participating health professionals and providers, use objective criteria that are available to those applying to become a participating provider or health professional and enrollees;

"(7) adjust any economic profiling to take into account patient characteristics (such as severity of illness) that may result in atypical utilization of services;

"(8) make the results of such profiling available to insurance purchasers, enrollees, and the health professional or provider involved;

"(9) notify any health professional or provider being reviewed under the process referred to in paragraph (3) of any information

indicating that the health professional or provider fails to meet the standards of the issuer;

"(10) offer a health professional or provider receiving notice pursuant to the requirement of paragraph (9) with an opportunity to—

"(A) review the information referred to in such paragraph, and

"(B) submit supplemental or corrected information;

"(11) not include in its contracts with participating health professionals and providers a provision permitting the issuer to terminate the contract 'without cause';

"(12) provide a due process appeal that conforms to the process specified in section 412 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11112) for all determinations that are adverse to a health professional or provider; and

"(13) unless a health professional or provider poses an imminent harm to enrollees or an adverse action by a governmental agency effectively impairs the ability to provide health care items and services, provide—

"(A) reasonable notice of any decision to terminate a health professional or provider 'for cause' (including an explanation of the reasons for the determination),

"(B) an opportunity to review and discuss all of the information on which the determination is based, and

"(C) an opportunity to enter into a corrective action plan, before the determination becomes subject to appeal under the process referred to in paragraph (12).

"(b) RULE OF CONSTRUCTION.—The requirements of subsection (a) shall not be construed as preempting or superseding any other reviews and appeals a health insurance issuer is required by law to make available.

"SEC. 2778. INFORMATION REPORTING AND DISCLOSURE.

"(a) IN GENERAL.—A health insurance issuer offering health insurance coverage shall provide enrollees and prospective enrollees with information about—

"(1) coverage provisions, benefits, and any exclusions—

"(A) by category of service,

"(B) by category or type of health professional or provider, and

"(C) if applicable, by specific service, including experimental treatments;

"(2) the percentage of the premium charged by the issuer that is set aside for administration and marketing of the issuer;

"(3) the percentage of the premium charged by the issuer that is expended directly for patient care;

"(4) the number, mix, and distribution of participating health professionals and providers;

"(5) the ratio of enrollees to participating health professionals and providers by category and type of health professional and provider;

"(6) the expenditures and utilization per enrollee by category and type of health professional and provider;

"(7) the financial obligations of the enrollee and the issuer, including premiums, copayments, deductibles, and established aggregate maximums on out-of-pocket costs, for all items and services, including—

"(A) those furnished by health professionals and providers that are not participating health professionals and providers, and

"(B) those furnished to an enrollee who is outside the service area of the coverage;

"(8) utilization review requirements of the issuer (including prior authorization review, concurrent review, post-service review, post-payment review, and any other procedures that may lead to denial of coverage or payment for a service);

"(9) financial arrangements and incentives that may—

"(A) limit the items and services furnished to an enrollee,

"(B) restrict referral or treatment options, or

"(C) negatively affect the fiduciary responsibility of a health professional or provider to an enrollee;

"(10) other incentives for health professionals and providers to deny or limit needed items or services;

"(11) quality indicators for the issuer and participating health professionals and providers, including performance measures such as appropriate referrals and prevention of secondary complications following treatment;

"(12) grievance procedures and appeals rights under the coverage, and summary information about the number and disposition of grievances and appeals in the most recent period for which complete and accurate information is available; and

"(13) the percentage of utilization review determinations made by the issuer that disagree with the judgment of the treating health professional or provider and the percentage of such determinations that are reversed on appeal.

"(b) REGULATIONS.—The Secretary, in collaboration with the Secretary of Labor, shall issue regulations to establish—

"(1) the styles and sizes of type to be used with respect to the appearance of the publication of the information required under subsection (a);

"(2) standards for the publication of information to ensure that such publication is—

"(A) readily accessible, and

"(B) in common language easily understood,

by individuals with little or no connection to or understanding of the language employed by health professionals and providers, health insurance issuers, or other entities involved in the payment or delivery of health care services, and

"(3) the placement and positioning of information in health plan marketing materials.

"SEC. 2779. CONFIDENTIALITY; ADEQUATE RESERVES.

"(a) CONFIDENTIALITY.—

"(1) IN GENERAL.—A health insurance issuer shall establish mechanisms and procedures to ensure compliance with applicable Federal and State laws to protect the confidentiality of individually identifiable information held by the issuer with respect to an enrollee, health professional, or provider.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'individually identifiable information' means, with respect to an enrollee, a health professional, or a provider, any information, whether oral or recorded in any medium or form, that identifies or can readily be associated with the identity of the enrollee, the health professional, or the provider.

"(b) FINANCIAL RESERVES; SOLVENCY.—A health insurance issuer shall—

"(1) meet such financial reserve or other solvency-related requirements as the applicable State authority may establish to assure the continued availability of (and appropriate payment for) covered items and services for enrollees; and

"(2) establish mechanisms specified by the applicable State authority to protect enrollees, health professionals, and providers in the event of failure of the issuer.

Such requirements shall not unduly impede the establishment of health insurance issuers owned and operated by health care professionals or providers or by non-profit community-based organizations.

"SEC. 2780. QUALITY IMPROVEMENT PROGRAM.

"(a) IN GENERAL.—A health insurance issuer shall establish a quality improvement program (consistent with subsection (b)) that systematically and continuously assesses and improves—

"(1) enrollee health status, patient outcomes, processes of care, and enrollee satisfaction associated with health care provided by the issuer; and

"(2) the administrative and funding capacity of the issuer to support and emphasize preventive care, utilization, access and availability, cost effectiveness, acceptable treatment modalities, specialists referrals, the peer review process, and the efficiency of the administrative process.

"(b) FUNCTIONS.—A quality improvement program established pursuant to subsection (a) shall—

"(1) assess the performance of the issuer and its participating health professionals and providers and report the results of such assessment to purchasers, participating health professionals and providers, and administrative personnel;

"(2) demonstrate measurable improvements in clinical outcomes and plan performance measured by identified criteria, including those specified in subsection (a)(1); and

"(3) analyze quality assessment data to determine specific interactions in the delivery system (both the design and funding of the health insurance coverage and the clinical provision of care) that have an adverse impact on the quality of care.".

(b) APPLICATION TO GROUP HEALTH INSURANCE COVERAGE.—

(1) Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under part C with respect to group health insurance coverage it offers.

"(b) ASSURING COORDINATION.—The Secretary of Health and Human Services and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding between such Secretaries, that—

"(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under part C (and this section) and section 713 of the Employee Retirement Income Security Act of 1974 are administered so as to have the same effect at all times; and

"(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.".

(2) Section 2792 of such Act (42 U.S.C. 300gg–92) is amended by inserting "and section 2706(b)" after "of 1996".

(c) APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

"SEC. 2752. PATIENT PROTECTION STANDARDS.

"Each health insurance issuer shall comply with patient protection requirements

under part C with respect to individual health insurance coverage it offers.".

(d) MODIFICATION OF PREEMPTION STANDARDS.—

(1) GROUP HEALTH INSURANCE COVERAGE.—Section 2723 of such Act (42 U.S.C. 300gg–23) is amended—

(A) in subsection (a)(1), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES IN CASE OF PATIENT PROTECTION REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 2706 and part C, and part D insofar as it applies to section 2706 or part C, shall not be construed to preempt any State law, or the enactment or implementation of such a State law, that provides protections for individuals that are equivalent to or stricter than the protections provided under such provisions.".

(2) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2762 of such Act (42 U.S.C. 300gg–62), as added by section 605(b)(3)(B) of Public Law 104–204, is amended—

(A) in subsection (a), by striking "subsection (b), nothing in this part" and inserting "subsections (b) and (c)", and

(B) by adding at the end the following new subsection:

"(c) SPECIAL RULES IN CASE OF PATIENT PROTECTION REQUIREMENTS.—Subject to subsection (b), the provisions of section 2752 and part C, and part D insofar as it applies to section 2752 or part C, shall not be construed to preempt any State law, or the enactment or implementation of such a State law, that provides protections for individuals that are equivalent to or stricter than the protections provided under such provisions.".

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 2723(a)(1) of such Act (42 U.S.C. 300gg–23(a)(1)) is amended by striking "part C" and inserting "parts C and D".

(2) Section 2762(b)(1) of such Act (42 U.S.C. 300gg–62(b)(1)) is amended by striking "part C" and inserting "part D".

(f) EFFECTIVE DATES.—(1)(A) Subject to subparagraph (B), the amendments made by subsections (a), (b), (d)(1), and (e) shall apply with respect to group health insurance coverage for group health plan years beginning on or after July 1, 1998 (in this subsection referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after January 1, 1999.

(B) In the case of group health insurance coverage provided pursuant to 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 subsections (a), (b), (d)(1), and (e) shall not apply to plan years beginning before the later of—

(i) 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

(ii) the general effective date.

For purposes of clause (i), 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 subsection (a) or (b) shall not be treated as a termination of such collective bargaining agreement.

(2) The amendments made by subsections (a), (c), (d)(2), and (e) shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 3. PATIENT PROTECTION STANDARDS UNDER 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 is amended by adding at the end the following new section:

"SEC. 713. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of part C of title XXVII of the Public Health Service Act.

"(b) REFERENCES IN APPLICATION.—In applying subsection (a) under this part, any reference in such part C—

"(1) to a health insurance issuer and health insurance coverage offered by such an issuer is deemed to include a reference to a group health plan and coverage under such plan, respectively;

"(2) to the Secretary is deemed a reference to the Secretary of Labor;

"(3) to an applicable State authority is deemed a reference to the Secretary of Labor; and

"(4) to an enrollee with respect to health insurance coverage is deemed to include a reference to a participant or beneficiary with respect to a group health plan.

"(c) ASSURING COORDINATION.—The Secretary of Health and Human Services and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding between such Secretaries, that—

"(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under such part C (and section 2706 of the Public Health Service Act) and this section are administered so as to have the same effect at all times; and

"(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.".

(b) MODIFICATION OF PREEMPTION STANDARDS.—Section 731 of such Act (42 U.S.C. 1191) is amended—

(1) in subsection (a)(1), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES IN CASE OF PATIENT PROTECTION REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 713 and part C of title XXVII of the Public Health Service Act, and subpart C insofar as it applies to section 713 or such part, shall not be construed to preempt any State law, or the enactment or implementation of such a State law, that provides protections for individuals that are equivalent to or stricter than the protections provided under such provisions.".

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Patient protection standards.".

(3) Section 734 of such Act (29 U.S.C. 1187) is amended by inserting "and section 713(d)" after "of 1996".

(d) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by this section shall apply with respect to group health plans for plan years beginning on or after July 1, 1998 (in this subsection referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after January 1, 1999.

(2) 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) the general effective date.

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 subsection (a) shall not be treated as a termination of such collective bargaining agreement.

SEC. 4. NON-PREEMPTION OF STATE LAW RESPECTING LIABILITY OF GROUP HEALTH PLANS.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by redesignating paragraph (9) as paragraph (10) and inserting the following new paragraph:

"(9) Subsection (a) of this section shall not be construed to preclude any State cause of action to recover damages for personal injury or wrongful death against any person that provides insurance or administrative services to or for an employee welfare benefit plan maintained to provide health care benefits.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to causes of action arising on or after the date of the enactment of this Act.

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 645. A bill to amend the Federal Water Pollution Control Act to improve and enforce compliance programs; to the Committee on Environment and Public Works.

THE CLEAN WATER ENFORCEMENT AND COMPLIANCE IMPROVEMENT ACT OF 1997

Mr. LAUTENBERG. Mr. President, I introduce the Clean Water Enforcement and Compliance Improvement Act of 1997. This important bill will put real teeth in the enforcement provisions of the Clean Water Act, and will help restore and preserve our Nation's already stressed lakes, rivers and coastal areas. I would like to commend my colleague from New Jersey, Congressman Pallone, for introducing similar legislation in the House of Representatives. Senator TORRICELLI has joined as a co-sponsor of our bill.

Mr. President, when Congress first enacted the Clean Water Act in 1972, we

established lofty goals-to make our Nation's waters fishable and swimmable. And we mandated strict enforcement and provided for penalties to assure compliance with the act's provisions.

We were responding to strong public concern about pollution of our waterways. That concern is every bit as strong today because people understand that clean water is essential to human life. The American people want us to rid our waters of bacteria, toxins, and garbage.

Yet, as we approach the 25th anniversary of the Clean Water Act, and after several substantial revisions since its enactment, the act has failed to meet all of our goals. While the Act has resulted in significant progress and water quality is improving, our waters are not clean. In 1988, over one-third of our rivers, lakes and estuaries surveyed throughout the country were either failing to achieve designated water quality levels or were threatened with failing to achieve those levels. In my State of New Jersey, a survey of roughly 10 percent of the State's rivers showed that only 15 percent were safe for swimming.

One reason we haven't made more progress is that the Clean Water Act is not being adequately enforced.

Mr. President, effective enforcement is essential to achieving the goals of the act. Not only does effective enforcement deter violations, but it also helps ensure that appropriate corrective actions are taken in a timely manner when violations do occur. The Clean Water Enforcement and Compliance Improvement Act will strengthen enforcement efforts.

Mr. President, my bill will toughen penalties for polluters, improve enforcement by EPA and state water pollution agencies, and expand citizens' right-to-know about violations of the Clean Water Act.

It establishes mandatory minimum penalties for serious violations of the Clean Water Act.

It requires that civil penalties be no less than the economic benefit resulting from the violation.

It requires more frequent reporting of water discharges to identify violations more quickly.

And it requires EPA to publish annually a list of those facilities that are in significant noncompliance with the Clean Water Act.

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. 645

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 "Clean Water Enforcement and Compliance Improvement Act of 1997".

SEC. 2. FINDINGS.

(a) IN GENERAL.—Congress finds that—

(1) a significant number of persons who have been issued permits under section 402 of the Federal Water Pollution Control Act are in violation of such permits;

(2) current enforcement programs of the Administrator of the Environmental Protection Agency and the States fail to address violations of such permits in a timely and effective manner;

(3) full, accurate and prompt reporting of possible violations of the Federal Water Pollution Control Act is necessary for implementation and well served by assuring that good faith reporters of possible violations are protected against adverse personnel actions;

(4) often violations of such permits continue for a considerable period of time, yielding significant economic benefits for the violator and thus penalizing similar facilities which act lawfully;

(5) penalties assessed and collected by the Administrator from violators of such permits are often less than the economic benefit gained by the violator;

(6) swift and timely enforcement by the Administrator and the States of violations of such permits is necessary to increase levels of compliance with such permits; and

(7) actions of private citizens have been effective in enforcing such permits and directing funds to environmental mitigation projects with over $12.8 million in penalties and interest having been recovered and deposited with the Treasury of the United States over the fiscal years 1990 through 1994.

(b) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Section 101 of the Federal Water Pollution Control Act (33 U.S.C. 1251) is amended by adding at the end the following:

"(h) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Congress finds that a discharge which results in a violation of this Act or a regulation, standard, limitation, requirement, or order issued pursuant to this Act interferes with the restoration and maintenance of the chemical, physical, and biological integrity of any waters into which the discharge flows (either directly or through a publicly owned treatment works), including any waters into which the receiving waters flow, and, therefore, harms those who use or enjoy such waters and those who use or enjoy nearby lands or aquatic resources associated with those waters.

"(i) FINDING WITH RESPECT TO CITIZEN SUITS.—Congress finds that citizen suits are a valuable means of enforcement of this Act and urges the Administrator to take actions to encourage such suits, including providing information concerning violators to citizen groups to assist them in bringing suits, providing expert witnesses and other evidence with respect to such suits, and filing amicus curiae briefs on important issues related to such suits.".

SEC. 3. VIOLATIONS OF REQUIREMENTS OF LOCAL CONTROL AUTHORITIES.

Section 307(d) of Federal Water Pollution Control Act (33 U.S.C. 1317(d)) is amended to read as follows:

"(d) VIOLATIONS.—After the date on which (1) any effluent standard or prohibition or pretreatment standard or requirement takes effect under this section, or (2) any requirement imposed in a pretreatment program under section 402(a)(3) or 402(b)(8) of this Act takes effect, it shall be unlawful for any owner or operator of any source to operate such source in violation of the effluent standard, prohibition, pretreatment standard, or requirement.".

SEC. 4. INSPECTIONS, MONITORING, AND PROVIDING INFORMATION.

(a) APPLICABILITY OF REQUIREMENTS.—Section 308(a) of the Federal Water Pollution Control Act (33 U.S.C. 1318(a)) is amended by striking "the owner or operator of any point source" and inserting "a person subject to a requirement of this Act".

(b) PUBLIC ACCESS TO INFORMATION.—The first sentence of section 308(b) of such Act is amended—

(1) by inserting "(including information contained in the Permit Compliance System of the Environmental Protection Agency)" after "obtained under this section";

(2) by inserting "made" after "shall be"; and

(3) by inserting "by computer telecommunication and other means for a period of at least 10 years" after "public" the first place it appears.

(c) PUBLIC INFORMATION.—Section 308 of such Act is further amended by adding at the end the following:

"(e) PUBLIC INFORMATION.—

"(1) POSTING OF NOTICE OF POLLUTED WATERS.—At each major point of public access (including, at a minimum, beaches, parks, recreation areas, marinas, and boat launching areas) to a body of navigable water that does not meet an applicable water quality standard or that is subject to a fishing and shell fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination, the State within which boundaries all or any part of such body of water lies shall, either directly or through local authorities, post and maintain a clearly visible sign which—

"(A) indicates the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption, as the case may be;

"(B) includes (i) information on the environmental and health effects associated with the failure to meet such standard or with the consumption of fish or shellfish subject to the restriction, and (ii) a phone number for obtaining additional information relating to the violation and restriction; and

"(C) will be maintained until the body of water is in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated with respect to the body of water, as the case may be.

"(2) NOTICE OF DISCHARGES TO NAVIGABLE WATERS.—Except for permits issued to municipalities for discharges composed entirely of stormwater under section 402 of this Act, each permit issued under section 402 by the Administrator or by a State shall ensure compliance with the following requirements:

"(A) Every permittee shall conspicuously maintain at all public entrances to the facility a clearly visible sign which indicates that the facility discharges pollutants into navigable waters and the location of such discharges; the name, business address, and phone number of the permittee; the permit number; and a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information.

"(B) Each permittee which is a publicly owned treatment works shall include in each quarterly mailing of a bill to each customer of the treatment works information which indicates that the treatment works discharges pollutants into the navigable waters and the location of each of such discharges; the name, business address and phone number of the permittee; the permit number; a

location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information; and a list of all violations of the requirements of the permit by the treatment works over the preceding 12-month period.

"(3) REGULATIONS.—

"(A) ISSUANCE.—The Administrator—

"(i) not later than 6 months after the date of the enactment of this subsection, shall propose regulations to carry out this subsection; and

"(ii) not later than 18 months after such date of enactment, shall issue such regulations.

"(B) CONTENT.—The regulations issued to carry out this subsection shall establish—

"(i) uniform requirements and procedures for identifying and posting bodies of water under paragraph (1);

"(ii) minimum information to be included in signs posted and notices issued pursuant to this subsection;

"(iii) uniform requirements and procedures for fish and shellfish sampling and analysis;

"(iv) uniform requirements for determining the nature and extent of fish and shellfish bans, advisories, and consumption restrictions which—

"(I) address cancer and noncancer human health risks;

"(II) take into account the effects of all fish and shellfish contaminants, including the cumulative and synergistic effects;

"(III) assure the protection of subpopulations who consume higher than average amounts of fish and shellfish or are particularly susceptible to the effects of such contamination;

"(IV) address race, gender, ethnic composition, or social and economic factors, based on the latest available studies of national or regional consumption by and impacts on such subpopulations unless more reliable site-specific data is available;

"(V) are based on a margin of safety that takes into account the uncertainties in human health impacts from such contamination; and

"(VI) evaluate assessments of health risks of contaminated fish and shellfish that are used in pollution control programs developed by the Administrator under this Act.".

(d) STATE REPORTS.—Section 305(b)(1) of such Act (33 U.S.C. 1315(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following:

"(F) a list identifying bodies of water for which signs were posted under section 308(e)(1) in the preceding year and the reason or reasons for such posting.".

SEC. 5. CIVIL PENALTIES.

(a) ENFORCEMENT OF LOCAL PRETREATMENT REQUIREMENTS.—

(1) COMPLIANCE ORDERS.—

(A) INITIAL ACTION.—Section 309(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1319(a)(1)) is amended by inserting after "404 of this Act," the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(B) ISSUANCE OF ORDERS.—Section 309(a)(3) of such Act is amended by inserting after "404 of this Act by a State," the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(2) CRIMINAL PENALTIES.—Section 309(c)(3)(A) of such Act is amended by inserting after "Army or by a State," the following: "or knowingly violates any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(3) ADMINISTRATIVE PENALTIES.—Section 309(g)(1)(A) of such Act is amended by inserting after "404 by a State," the following: "or has violated any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or an order issued by the Administrator under subsection (a) of this section,".

(b) TREATMENT OF SINGLE OPERATIONAL UPSETS.—

(1) CRIMINAL PENALTIES.—Section 309(c) of such Act is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) CIVIL PENALTIES.—Section 309(d) of such Act is amended by striking the last sentence.

(3) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) of such Act is amended by striking the last sentence.

(c) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(1) IN GENERAL.—Section 309(d) of such Act is amended by inserting after the second sentence the following: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.".

(2) CONFORMING AMENDMENT.—Section 505(a) of such Act (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ", including ordering the use of a civil penalty for carrying out mitigation projects in accordance with such section 309(d)".

(d) DETERMINATION OF AMOUNT OF PENALTIES.—

(1) CIVIL PENALTIES.—The second sentence of section 309(d) of such Act (33 U.S.C. 1319(d)) is amended by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "economic impact of the penalty on the violator,".

(2) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) of such Act is amended—

(A) by striking "or savings"; or

(B) by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "resulting from the violation,".

(e) LIMITATION ON DEFENSES.—Section 309(g)(1) of such Act is amended by adding at the end the following: "In a proceeding to assess or review a penalty under this subsection, the adequacy of consultation between the Administrator or the Secretary, as the case may be, and the State shall not be a defense to assessment or enforcement of such penalty.".

(f) AMOUNTS OF ADMINISTRATIVE CIVIL PENALTIES.—

(1) GENERAL RULE.—Section 309(g)(2) of such Act is amended to read as follows:

"(2) AMOUNT OF PENALTIES; NOTICE; HEARING.—

"(A) MAXIMUM AMOUNT OF PENALTIES.—The amount of a civil penalty under paragraph (1) may not exceed $25,000 per violation per day for each day during which the violation continues.

"(B) WRITTEN NOTICE.—Before issuing an order assessing a civil penalty under this subsection, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed the penalty written notice of the Administrator's or Secretary's proposal to issue the order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order.

"(C) HEARINGS NOT ON THE RECORD.—If the proposed penalty does not exceed $25,000, the hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(D) HEARINGS ON THE RECORD.—If the proposed penalty exceeds $25,000, the hearing shall be on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.".

(2) CONFORMING AMENDMENTS.—Section 309(g) of such Act is amended—

(A) in paragraph (1) by striking "class I civil penalty or a class II";

(B) in the second sentence of paragraph (4)(C) by striking "(2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty" and inserting "(2)"; and

(C) in the first sentence of paragraph (8) by striking "assessment—" and all that follows through "by filing" and inserting "assessment in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred by filing".

(g) STATE ENFORCEMENT ACTIONS AS BAR TO FEDERAL ENFORCEMENT ACTIONS.—Section 309(g)(6)(A) of such Act is amended—

(1) by inserting "or" after the comma at the end of clause (i);

(2) by striking clause (ii); and

(3) by redesignating clause (iii) as clause (ii) and in such clause—

(A) by striking ", the Secretary, or the State" and inserting "or the Secretary"; and

(B) by striking "or such comparable State law, as the case may be,".

(h) RECOVERY OF ECONOMIC BENEFIT.—Section 309 of such Act is amended by adding at the end the following:

"(h) RECOVERY OF ECONOMIC BENEFIT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this section, any civil penalty assessed and collected under this section must be in an amount which is not less than the amount of the economic benefit (if any) resulting from the violation for which the penalty is assessed.

"(2) REGULATIONS.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall issue regulations establishing a methodology for calculating the economic benefits or savings resulting from violations of this Act. Pending issuance of such regulations, this subsection shall be in effect and economic benefits shall be calculated for purposes of paragraph (1) on a case-by-case basis.".

(i) LIMITATION ON COMPROMISES.—Such section 309 is further amended by adding at the end the following:

"(i) LIMITATION ON COMPROMISES OF CIVIL PENALTIES.—Notwithstanding any other provision of this section, the amount of a civil penalty assessed under this section may not be compromised below the amount determined by adding—

"(1) the minimum amount required for recovery of economic benefit under subsection (h), to

"(2) 50 percent of the difference between the amount of the civil penalty assessed and such minimum amount.".

(j) MINIMUM AMOUNT FOR SERIOUS VIOLATIONS.—Such section 309 is further amended by adding at the end the following:

"(j) MINIMUM CIVIL PENALTIES FOR SERIOUS VIOLATIONS AND SIGNIFICANT NONCOMPLIERS.—

"(1) SERIOUS VIOLATIONS.—Notwithstanding any other provision of this section (other than paragraph (2)), the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for a discharge from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more, or

"(B) for a discharge from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

shall be $1,000 for the first such violation in a 180-day period.

"(2) SIGNIFICANT NONCOMPLIERS.—Notwithstanding any other provision of this section, the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for the second or more discharge in a 180-day period from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more,

"(B) for the second or more discharge in a 180-day period from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

"(C) for the fourth or more discharge in a 180-day period from a point source of any pollutant which exceeds or otherwise violates the same effluent limitation, or

"(D) for not filing in a 180-day period 2 or more reports in accordance with section 402(r)(1),

shall be $5,000 for each of such violations.

"(3) MANDATORY INSPECTIONS FOR SIGNIFICANT NONCOMPLIERS.—The Administrator shall identify any person described in paragraph (2) as a significant noncomplier and shall conduct an inspection described in section 402(q) of this Act of the facility at which the violations were committed. Such inspections shall be conducted at least once in the 180-day period following the date of the most recent violation which resulted in such person being identified as a significant noncomplier.

"(4) ANNUAL REPORTING.—The Administrator shall transmit to Congress and to the Governors of the States, and shall publish in the Federal Register, on an annual basis a list of all persons identified as significant noncompliers under paragraph (3) in the preceding calendar year and the violations which resulted in such classifications.

"(5) HAZARDOUS POLLUTANT DEFINED.—For purposes of this subsection, the term 'hazardous pollutant' has the meaning the term 'hazardous substance' has under subsection (c)(6) of this section.".

(k) STATE PROGRAM.—Section 402(b)(7) of such Act (33 U.S.C. 1342(b)(7)) is amended to read as follows:

"(7) To abate violations of the permit or the permit program which shall include, beginning on the last day of the 2-year period beginning on the date of the enactment of the Clean Water Compliance and Enforcement Improvement Amendments Act of 1995, a penalty program comparable to the Federal penalty program under section 309 of this Act and which shall include at a minimum criminal, civil, and civil administrative penalties, and may include other ways and means of enforcement, which the State demonstrates to the satisfaction of the Administrator are equally effective as the Federal penalty program;".

(l) FEDERAL PROCUREMENT COMPLIANCE INCENTIVE.—Section 508(a) of such Act (33 U.S.C. 1368(a)) is amended by inserting after the second comma "or who is identified under section 309(j)(3) of this Act,".

SEC. 6. NATIONAL POLLUTANT DISCHARGE ELIMINATION PERMITS.

(a) WITHDRAWAL OF STATE PROGRAM APPROVAL.—Section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)) is amended by striking "unless he determines that adequate authority does not exist:" and inserting the following: "only when he determines that adequate authority exists and shall withdraw program approval whenever he determines that adequate authority no longer exists:".

(b) JUDICIAL REVIEW OF RULINGS ON APPLICATIONS FOR STATE PERMITS.—Section 402(b)(3) of such Act is amended by inserting "and to ensure that any interested person who participated in the public comment process and any other person who could obtain judicial review of that action under any other applicable law has the right to judicial review of such ruling" before the semicolon at the end.

(c) INSPECTIONS FOR MAJOR INDUSTRIAL AND MUNICIPAL DISCHARGERS.—Section 402(b) of such Act is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by adding at the end the following:

"(10) To ensure that any permit for a discharge from a major industrial or municipal facility, as defined by the Administrator by regulation, includes conditions under which such facility will be subject to at least annual inspections by the State in accordance with subsection (q) of this section;".

(d) MONTHLY REPORTS FOR SIGNIFICANT INDUSTRIAL USERS OF POTWS.—Section 402(b) of such Act is further amended by adding at the end the following:

"(11) To ensure that any permit for a discharge from a publicly owned treatment works in the State includes conditions under which the treatment works will require any significant industrial user of the treatment works, as defined by the Administrator by regulation, to prepare and submit to the Administrator, the State, and the treatment works a monthly discharge monitoring report as a condition to using the treatment works;".

(e) PERMITS REQUIRED FOR INTRODUCTION OF POLLUTANTS INTO POTWS.—Section 402(b) of such Act is further amended by adding at the end the following:

"(12) To ensure that, after the last day of the 2-year period beginning on the date of the enactment of this paragraph, any significant industrial user, or other source designated by the Administrator, introducing a pollutant into a publicly owned treatment works has, and operates in accordance with, a permit issued by the treatment works or the State for introduction of such pollutant; and".

(f) GRANTING OF AUTHORITY TO POTWS FOR INSPECTIONS AND PENALTIES.—Section 402(b) of such Act is further amended by adding at the end the following:

"(13) To ensure that the State will grant to publicly owned treatment works in the State, not later than 3 years after the date of the enactment of this paragraph, authority, power, and responsibility to conduct inspections under subsection (q) of this section and to assess and collect civil penalties and civil administrative penalties under paragraph (7) of this subsection.".

(g) INSPECTION.—Section 402 of such Act is amended by adding at the end the following:

"(q) INSPECTION.—

"(1) GENERAL RULE.—Each permit for a discharge into the navigable waters or introduction of pollutants into a publicly owned treatment works issued under this section shall include conditions under which the effluent being discharged will be subject to random inspections in accordance with this subsection by the Administrator or the State, in the case of a State permit program under this section.

"(2) MINIMUM STANDARDS.—Not later than 6 months after the date of enactment of this subsection, the Administrator shall establish minimum standards for inspections under this subsection. Such standards shall require, at a minimum, the following:

"(A) An annual representative sampling by the Administrator or the State, in the case of a State permit program under this section, of the effluent being discharged; except that if the discharge is not from a major industrial or municipal facility such sampling shall be conducted at least once every 3 years.

"(B) An analysis of all samples collected under subparagraph (A) by a Federal or State owned and operated laboratory or a State approved laboratory, other than one that is being used by the permittee or that is directly or indirectly owned, operated, or managed by the permittee.

"(C) An evaluation of the maintenance record of any treatment equipment of the permittee.

"(D) An evaluation of the sampling techniques used by the permittee.

"(E) A random check of discharge monitoring reports of the permittee for each 12-month period for the purpose of determining whether or not such reports are consistent with the applicable analyses conducted under subparagraph (B).

"(F) An inspection of the sample storage facilities and techniques of the permittee.".

(h) REPORTING.—Section 402 of such Act is further amended by adding at the end the following:

"(r) REPORTING.—

"(1) GENERAL RULE.—Each person holding a permit issued under this section which is determined by the Administrator to be a major industrial or municipal discharger of pollutants into the navigable waters shall prepare and submit to the Administrator a monthly discharge monitoring report. Any other person holding a permit issued under this section shall prepare and submit to the Administrator quarterly discharge monitoring reports or more frequent discharge monitoring reports if the Administrator requires. Such reports shall contain, at a minimum, such information as the Administrator shall require by regulation.

"(2) REPORTING OF HAZARDOUS DISCHARGES.—

"(A) GENERAL RULE.—If a discharge from a point source for which a permit is issued under this section exceeds an effluent limitation contained in such permit which is based on an acute water quality standard or any other discharge which may cause an exceedance of an acute water quality standard or otherwise is likely to cause injury to persons or damage to the environment or to pose a

threat to human health and the environment, the person holding such permit shall notify the Administrator and the affected States and municipalities, in writing, of such discharge not later than 2 hours after the later of the time at which such discharge commenced or the time at which the permittee knew or had reason to know of such discharge.

"(B) SPECIAL RULE FOR HAZARDOUS POLLUTANTS.—If a discharge described in subparagraph (A) is of a hazardous pollutant (as defined in section 309(j) of this Act), the person holding such permit shall provide the Administrator with such additional information on the discharge as may be required by the Administrator. Such additional information shall be provided to the Administrator within 24 hours after the later of the time at which such discharge commenced or the time at which the permittee became aware of such discharge. Such additional information shall include, at a minimum, an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken or being taken (i) to remediate the problem caused by the discharge and any damage to the environment, and (ii) to avoid a repetition of the discharge.

"(3) SIGNATURE.—All reports filed under paragraph (1) must be signed and dated by the highest ranking official having day-to-day managerial and operational responsibility for the facility at which the discharge occurs or, in the absence of such person, by another responsible high ranking official at such facility. Such highest ranking official shall be responsible for the accuracy of all information contained in such reports; except that such highest ranking official may file with the Administrator amendments to any such report if the report was signed in the absence of the highest ranking official by another high ranking official and if such amendments are filed within 7 days of the return of the highest ranking official.".

(i) LIMITATION ON ISSUANCE OF PERMITS TO SIGNIFICANT NONCOMPLIERS.—Section 402 of such Act is further amended by adding at the end the following:

"(s) SIGNIFICANT NONCOMPLIERS.—No permit may be issued under this section to any person (other than a publicly owned treatment works) identified under section 309(j)(3) of this Act or to any other person owned or controlled by the identified person, owning or controlling the identified person, or under common control with the identified person, until the Administrator or the State or States in which the violation or violations occur determines that the condition or conditions giving rise to such violation or violations have been corrected. No permit application submitted after the date of the enactment of this subsection may be approved unless the application includes a list of all violations of this Act by a person identified under section 309(j) of this Act during the 3-year period preceding the date of submission of the application and evidence indicating whether the underlying cause of each such violation has been corrected.".

(j) APPLICABILITY.—The amendments made by this section shall apply to permits issued before, on, or after the date of the enactment of this Act; except that—

(1) with respect to permits issued before such date of enactment to a major industrial or municipal discharger, such amendments shall take effect on the last day of the 1-year period beginning on such date of enactment; and

(2) with respect to all other permits issued before such date of enactment, such amendments shall take effect on the last day of the 2-year period beginning on such date of enactment.

SEC. 7. EXPIRED STATE PERMITS.

Section 402(d) of the Federal Water Pollution Control Act (33 U.S.C. 1342(d)) is amended by adding at the end the following:

"(5) EXPIRED STATE PERMITS.—In any case in which—

"(A) a permit issued by a State for a discharge has expired,

"(B) the permittee has submitted an application to the State for a new permit for the discharge, and

"(C) the State has not acted on the application before the last day of the 18-month period beginning on the date the permit expired,

the Administrator may issue a permit for the discharge under subsection (a).".

SEC. 8. COMPLIANCE SCHEDULE.

Section 302(b)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1312(b)(2)(B)) is amended by adding at the end the following: "The Administrator may only issue a permit pursuant to this subparagraph for a period exceeding 2 years if the Administrator makes the findings described in clauses (i) and (ii) of this subparagraph on the basis of a public hearing.".

SEC. 9. EMERGENCY POWERS.

Section 504 of the Federal Water Pollution Control Act (33 U.S.C. 1364) is amended to read as follows:

"SEC. 504. COMMUNITY PROTECTION.

"(a) ISSUANCE OF ORDERS; COURT ACTION.—Notwithstanding any other provision of this Act, whenever the Administrator finds that, because of an actual or threatened direct or indirect discharge of a pollutant, there may be an imminent and substantial endangerment to the public health or welfare (including the livelihood of persons) or the environment, the Administrator may issue such orders or take such action as may be necessary to protect public health or welfare or the environment and commence a suit (or cause it to be commenced) in the United States district court for the district where the discharge or threat occurs. Such court may grant such relief to abate the threat and to protect against the endangerment as the public interest and the equities require, enforce, and adjudge penalties for disobedience to orders of the Administrator issued under this section, and grant other relief according to the public interest and the equities of the case.

"(b) ENFORCEMENT OF ORDERS.—Any person who, without sufficient cause, violates or fails to comply with an order of the Administrator issued under this section, shall be liable for civil penalties to the United States in an amount not to exceed $25,000 per day for each day on which such violation or failure occurs or continues.".

SEC. 10. CITIZEN SUITS.

(a) SUITS FOR PAST VIOLATIONS.—Section 505 of the Federal Water Pollution Control Act (33 U.S.C. 1365) is amended—

(1) in subsection (a)(1) by inserting "to have violated (if there is evidence that the alleged violations has been repeated) or" after "who is alleged";

(2) in subsection (b)(1)(A)(ii) by striking "occurs" and inserting "has occurred or is occurring"; and

(3) in subsection (f)(6) by inserting "has been or" after "which".

(b) TIME LIMIT.—Section 505(b)(1)(A) of such Act is amended by striking "60 days" and inserting "30 days".

(c) EFFECT OF JUDGMENTS ON CITIZEN SUITS.—Section 505(b) of such Act is further amended—

(1) in paragraph (1)(B)—

(A) by striking ", or a State"; and

(B) by striking "right." and inserting "right and may obtain costs of litigation under subsection (d), or"; and

(2) by adding at the end the following: "The notice under paragraph (1)(A) need set forth only violations which have been specifically identified in the discharge monitoring reports of the alleged violator. An action by a State under subsection (a)(1) may be brought at any time. No judicial action by the Administrator or a State shall bar an action for the same violation under subsection (a)(1) unless the action is by the Administrator and meets the requirements of this paragraph. No administrative action by the Administrator or a State shall bar a pending action commenced after February 4, 1987, for the same violation under subsection (a)(1) unless the action by the Administrator or a State meets the requirements of section 309(g)(6) of this Act.".

(d) CONSENT JUDGMENTS.—Section 505(c)(3) of such Act is amended by adding at the end the following: "Consent judgments entered under this section may provide that the civil penalties included in the consent judgment be used for carrying out mitigation projects in accordance with section 309(d).".

(e) PRETREATMENT REQUIREMENTS.—Section 505(f)(4) of such Act is amended by striking "or pretreatment standards" and inserting "or pretreatment standard or requirement described in section 307(d)".

(f) EFFLUENT STANDARD DEFINITION.—Section 505(f)(6) of such Act is amended by inserting "narrative or mathematical" before "condition".

(g) OFFERS OF JUDGMENT.—Section 505 of such Act is further amended by adding at the end the following:

"(g) APPLICABILITY OF OFFERS OF JUDGMENT.—Offers of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure shall not be applicable to actions brought under subsection (a)(1) of this section.".

SEC. 11. EMPLOYEE PROTECTION.

Section 507 of the Federal Water Pollution Control Act (33 U.S.C. 1367) is amended—

(1) in subsection (e) by inserting "CONTINUING EVALUATIONS" after "(e)";

(2) by redesignating subsection (e) as subsection (f); and

(3) by striking subsections (a), (b), (c), and (d) and inserting the following:

"(a) IN GENERAL.—No employer or other person may harass, prosecute, hold liable, or discriminate against any employee or other person because the person—

"(1) is assisting or demonstrating an intent to assist in achieving compliance with any provision of this Act (including a rule or regulation issued to carry out this Act);

"(2) is refusing to violate or assist in the violation of any provision of this Act (including a rule or regulation issued to carry out this Act);

"(3) has commenced, caused to be commenced, or is about to commence a proceeding, has testified or is about to testify at a proceeding, or has assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

"(b) FILING COMPLAINTS AND PROCEDURES.—

"(1) FILING DEADLINE.—An employee alleging a violation of subsection (a), or another person at the employee's request, may file a complaint with the Secretary of Labor not later than 365 days after the alleged violation occurred.

"(2) PROCEDURES.—

"(A) INVESTIGATION; PRELIMINARY ORDERS.—Not later than 60 days after receiving a complaint, the Secretary shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify the complainant and the person alleged to have committed the violation of the findings. If the Secretary decides it is reasonable to believe a violation occurred, the Secretary shall include with the decision findings and a preliminary order for the relief provided under paragraph (3).

"(B) OBJECTIONS TO PRELIMINARY ORDER.—Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

"(C) HEARING; FINAL ORDER; SETTLEMENT AGREEMENT.—A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.

"(3) ORDER.—

"(A) PENALTIES.—If the Secretary decides, on the basis of a complaint, a person violated subsection (a), the Secretary shall order the person to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

"(iii) pay compensatory damages, including back pay.

"(B) COSTS.—If the Secretary issues an order under subparagraph (A) and the complainant requests, the Secretary may assess against the person against whom the order is issued the costs (including attorney's fees) reasonably incurred by the complainant in bringing the complaint. The Secretary shall determine the costs that reasonably were incurred.

"(4) JUDICIAL REVIEW AND VENUE.—A person adversely affected by an order issued after a hearing under this subsection may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. The review shall be heard and decided expeditiously. An order of the Secretary subject to review under this paragraph is not subject to judicial review in a criminal or other civil proceeding.

"(5) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued under this subsection, the Secretary shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

"(c) BURDENS OF PROOF.—The legal burdens of proof with respect to a violation of subsection (a) shall be governed by the applicable provisions of sections 1214 and 1221 of title 5, United States Code.

"(d) SUBPOENA AUTHORITY.—With respect to an alleged violation of subsection (a), the Secretary of Labor may issue a subpoena for the attendance and testimony of any person and the production of documentary or other evidence from any person if the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.

"(e) POSTING REQUIREMENT.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.".

SEC. 12. ISSUANCE OF SUBPOENAS.

Section 509(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1369(a)(1)) is amended by striking "obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act," and inserting "carrying out this Act,".

SEC. 13. JUDICIAL REVIEW OF EPA ACTIONS.

Section 509(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1369(b)(1)) is amended—

(1) by inserting after the comma at the end of clause (D) "including a decision to deny a petition by interested person to veto an individual permit issued by a State,";

(2) by inserting after the comma at the end of clause (E) "including a decision not to include any pollutant in such effluent limitation or other limitation if the Administrator has or is made aware of information indicating that such pollutant is present in any discharge subject to such limitation,"; and

(3) by striking "and (G)" and inserting the following: "(G) in issuing or approving any water quality standard under section 303(c) or 303(d), (H) in issuing any water quality criterion under section 304(a), including a decision not to address any effect of the pollutant subject to such criterion if the Administrator has or is made aware of information indicating that such effect may occur, and (J)".

SEC. 14. NATIONAL CLEAN WATER TRUST FUND.

(a) IN GENERAL.—Title V of the Federal Water Pollution Control Act (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 520 and by inserting after section 518 the following new section:

"SEC. 519. NATIONAL CLEAN WATER TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Water Trust Fund'.

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to the penalties collected under section 309 of this Act and the penalties collected under section 505(a) of this Act (excluding any amounts ordered to be used to carry out mitigation projects under section 309 or 505(a), as the case may be).

"(c) ADMINISTRATION OF TRUST FUND.—The Administrator shall administer the Clean Water Trust Fund. The Administrator may use moneys in the Fund to carry out inspections and enforcement activities pursuant to this Act. In addition, the Administrator may make such amounts of money in the Fund as the Administrator determines appropriate available to carry out title VI of this Act.".

(b) CONFORMING AMENDMENT TO STATE REVOLVING FUND PROGRAM.—Section 607 of such Act (33 U.S.C. 1387) is amended—

(1) by inserting "(a) IN GENERAL.—" before "There is"; and

(2) by adding at the end the following:

"(b) TREATMENT OF TRANSFERS FROM CLEAN WATER TRUST FUND.—For purposes of this title, amounts made available from the Clean Water Trust Fund under section 519 of this Act to carry out this title shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title.".

SEC. 15. APPLICABILITY.

Sections 101(h), 309(g)(6)(A), 505(a)(1), 505(b), 505(g), and 505(i) of the Federal Water Pollution Control Act, as inserted or amended by this Act, shall be applicable to all cases pending under such Act on the date of the enactment of this Act and all cases brought on or after such date of enactment relating to violations which occurred before such date of enactment.

By Mr. FEINGOLD:

S. 647. A bill to amend the Congressional Budget and Impeachment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

THE EMERGENCY SPENDING CONTROL ACT OF 1997

• Mr. FEINGOLD. Mr. President, I am pleased to re-introduce a measure designed to limit consideration of nonemergency matters in emergency legislation. This bill, S. 647, the Emergency Spending Control Act of 1997, passed the Senate during the last Congress as part of the Senate's version of the Line-Item Veto Act, though it was later dropped in conference. Identical language passed the other body during the 103d Congress with overwhelming bipartisan support, first as a substitute amendment by a vote of 322 to 99, and then, as amended, by a vote of 406 to 6.

Mr. President, the support this measure has received in both Houses is a reflection of the keen awareness Members have of the abuses of the emergency appropriations process that have taken place. This measure helps address one aspect of that abuse by limiting emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

As an additional enforcement mechanism, the legislation adds further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

Mr. President, though this proposal relates to shoring up our budget rules, I want to stress that the rules themselves do not solve the deficit problem. No rule can—whether it is a procedural rule of the Senate, a statute, or a constitutional amendment. The only way

we will balance the budget is through specific spending cuts and exercising fiscal restraint.

However, we have made some progress over the past 4 years, and that progress, as well as the continued work we need to do, can be sustained through the budget rules we impose on ourselves by ensuring the sacrifices that have been made, and that we will ask in the future, will not be hollow or futile.

The rules that have been developed over the past twenty years have proven useful in this regard, though it bears repeating that the deficit has begun to come down only as a result of our willingness to vote for tough measures.

In general, the rules require that new spending, whether through direct spending, tax expenditures, or discretionary programs, be offset with spending cuts or revenue increases. However, the rules provide for exceptions in the event of true emergencies.

The deliberate review through the federal budget process, weighing one priority against another, may not permit a timely response to an international crisis, a natural disaster, or some other emergency. We do not ask that earthquake victims find a funding source before we send them aid. But that should not, even in dire circumstances, be read to imply we must not find ways to pay for emergencies, rather than simply add their costs to the deficit.

But, Mr. President, the emergency exception to our budget rules, designed to expedite a response to an urgent need, has become a loophole, abused by those trying to circumvent the scrutiny of the budget process, in particular, by adding non-emergency matters to emergency legislation that is receiving special, accelerated consideration.

Mr. President, the measure I introduce today targets that abuse by helping to keep emergency measures clean of extraneous matters on which there is no emergency designation.

When the appropriations bill to provide relief for the Los Angeles earthquake was introduced in the 103rd Congress, it initially did four things: provided $7.8 billion for the Los Angeles quake, $1.2 billion for the Department of Defense peacekeeping operations; $436 million for Midwest flood relief, and $315 million more for the 1989 California earthquake.

But, Mr. President, by the time the Los Angeles earthquake bill became law, it also provided $1.4 million to fight potato fungus, $2.3 million for FDA pay raises, $14.4 million for the National Park Service, $12.4 million for the Bureau of Indian Affairs, $10 million for a new Amtrak station in New York, $40 million for the space shuttle, $20 million for a fingerprint lab, $500,000 for United States Trade Representative travel office, and $5.2 million for the Bureau of Public Debt.

Though non-emergency matters attached to emergency bills are still subject to the spending caps established in the concurrent budget resolution, as long as total spending remains under those caps, these unrelated spending matters are not required to be offset with spending cuts. In the case of the LA earthquake bill, because the caps had been reached the new spending was offset by rescissions, but those rescissions might otherwise have been used for deficit reduction. Moreover, by using emergency appropriations bills as a vehicle, these extraneous proposals avoid the examination through which legislative proposals must go to justify Federal spending. If there is truly a need to shift funds to these programs, an alternative vehicle—a regular supplemental appropriations bill, not an emergency spending bill—should be used.

The measure I am introducing today will restrict that kind of misuse of the emergency appropriations process. Adding non-emergency, extraneous matters to emergency appropriations not only is an attempt to avoid the legitimate scrutiny of our normal budget process, it can also jeopardize our ability to provide relief to those who are suffering from the disaster to which we are responding.

Just as importantly, adding superfluous material to emergency appropriations bills degrades those budget rules on which we rely to impose fiscal discipline, and that only encourages further erosion of our efforts to reduce the deficit.

Mr. President, as I noted earlier, this legislation has passed both Houses in recent years—in the Senate during the 104th Congress as the amendment I offered to the Line Item Veto Act, and in the other body, during the 103rd Congress, by a vote of 406 to 6. I urge my colleagues to join in this effort to pass this measure through both Houses during this Congress, and help end this abusive practice.

Mr. President, I ask unanimous consent that the text of bill be printed in the RECORD.

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

S. 647

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 "Emergency Spending Control Act of 1997".

SEC. 2. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.—Secton 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority.".

(b) EMERGENCY LEGISLATION.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending.".

(c) NEW POINT OF ORDER.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(d) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".●

By Mr. GORTON (for himself, Mr. ASHCROFT, Mr. MCCAIN, and Mr. LOTT:

S. 648. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE PRODUCT LIABILITY REFORM ACT OF 1997

Mr. GORTON. Mr. President, I am introducing this evening, along with Senators ASHCROFT, MCCAIN, and LOTT, a bill to reform and rationalize our product liability system.

At the beginning of this session, Senator ASHCROFT and others introduced S.5, another measure to address product liability. Although I agreed with the substance of S.5, which was identical to the conference report on Product Liability that the President vetoed in the 104th Congress, I did not cosponsor S.5 because I knew that that particular bill would not be enacted into law and because I wanted to craft another bill that would obtain bi-partisan support in the Senate, address the President's legitimate concerns with the conference report, and accomplish meaningful reform.

Mr. President, I cannot say that the measure I am introducing tonight fully accomplishes that. But it comes very close. I introduce this measure without the co-sponsorship of my good friend

and long-time companion on this worthy mission, Senator ROCKEFELLER, but I introduce it with the sincere belief that we will continue to work together to enact product liability reform in 1997.

I introduce this measure to get the process started. It is a good measure that I believe goes a long way toward meeting the goals I described above. But as I said, the process is just starting. I welcome input from my Republican and Democratic colleagues.

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. 648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Product Liability Reform Act of 1997".

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

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Applicability; preemption.
Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
Sec. 104. Defense based on claimant's use of intoxicating alcohol or drugs.
Sec. 105. Misuse or alteration.
Sec. 106. Uniform time limitations on liability.
Sec. 107. Alternative dispute resolution procedures.
Sec. 108. Uniform standards for award of punitive damages.
Sec. 109. Liability for certain claims relating to death.
Sec. 110. Several liability for noneconomic loss.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Effect of court of appeals decisions.
Sec. 302. Federal cause of action precluded.
Sec. 303. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(A) FINDINGS.—The Congress finds that—

(1) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(2) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(3) the rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the States, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce.

(4) as a result of excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to them through higher prices;

(5) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability jeopardize the financial well-being of many individuals as well as entire industries, particularly the Nation's small businesses and adversely affects government and taxpayers;

(6) the excessive costs of the civil justice system undermine the ability of American companies to compete internationally, and serve to decrease the number of jobs and the amount of productive capital in the national economy;

(7) the unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost;

(8) because of the national scope of the problems created by the defects in the civil justice system, it is not possible for the States to enact laws that fully and effectively respond to those problems;

(9) it is the constitutional role of the national government to remove barriers to interstate commerce and to protect due process rights; and

(10) there is a need to restore rationality, certainty, and fairness to the civil justice system in order to protect against excessive, arbitrary, and uncertain damage awards and to reduce the volume, costs, and delay of litigation.

(b) PURPOSES.—Based upon the powers contained in Article I, Section 8, Clause 3 and the Fourteenth Amendment of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights by—

(1) establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) placing reasonable limits on damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in civil actions;

(4) reducing the unacceptable costs and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; and

(5) establishing greater fairness, rationality, and predictability in the civil justice system.

TITLE I—TITLE PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) ACTUAL MALICE.—The term "actual malice" means specific intent to cause serious physical injury, illness, disease, death, or damage to property.

(2) CLAIMANT.—The term "claimant" means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(4) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage solely to a product itself, loss relating to a dispute over its value, or consequential economic loss, the recovery of which is governed by the Uniform Commercial Code or analogous State commercial or contract law.

(5) COMPENSATORY DAMAGES.—The term "compensatory damages" means damages awarded for economic and non-economic loss.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(7) HARM.—The term "harm" means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(8) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(9) NONECONOMIC LOSS.—The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(10) PERSON.—The term "person" means any individual corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(11) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state which—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSIONS.—The term does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(12) PRODUCT LIABILITY ACTION.— The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(13) PRODUCT SELLER—

(A) IN GENERAL.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(14) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

(15) STATE.—The term "State" means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) PREEMPTION.—

(1) IN GENERAL.—This Act governs any product liability action brought in any State or Federal court on any theory for harm caused by a product.

(2) ACTIONS EXCLUDED.—A civil action brought for commercial loss shall be governed only by applicable commercial or contract law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes State law only to the extent that State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by otherwise applicable State or Federal law.

(c) EFFECT ON OTHER LAW.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(d) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment, or any action brought under any theory of dramshop or third-party liability arising out of the sale or provision of alcohol products to intoxicated persons or minors, shall not be subject to the provisions of this Act but shall be subject to any applicable State law.

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant;

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product—

(A) if the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) if the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(13)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action, it shall be a complete defense to such action if the defendant proves that—

(1) the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug when the accident or other event which resulted in such claimant's harm occurred; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for such accident or other event.

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term "drug" mean any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In a product liability action, the damages for which a defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the

class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For the purposes of this Act, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer or any co-employee who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and subsection (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(A) the harm that is the subject of the action; and

(B) the cause of the harm.

(2) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a product liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(3) EFFECT OF STAY OR INJUNCTION.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product alleged to have caused harm (other than toxic harm) may be filed after the 18-year period beginning at the time of delivery of the product to the first purchaser or lessee.

(2) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 18 years, but it will apply at the expiration of that warranty.

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action not later than 1 year after the date of enactment of this Act.

SEC. 107. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action may, not later than 60 days after the service of—

(1) the initial complaint; or

(2) the applicable deadline for a responsive pleading;

whichever is later, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (c), not later than 10 days after the service of an offeree to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 108. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, the punitive damages shall not exceed the lesser of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or sister corporation.

(3) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGREGIOUS CONDUCT.—

(A) DETERMINATION BY COURT.—If the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages (referred to in this paragraph as the "additional amount") in excess of the amount determined in accordance with paragraph (1) to be awarded against the defendant in a separate proceeding in accordance with this paragraph.

(B) FACTORS FOR CONSIDERATION.—In any proceeding under paragraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the conduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant; and

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) REQUIREMENTS FOR AWARDING ADDITIONAL AMOUNT.—If the court awards an additional amount pursuant to this subsection, the court shall state its reasons for setting the amount of the additional amount in findings of fact and conclusions of law.

(D) PREEMPTION.—This section does not create a cause of action for punitive damages and does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Nothing in this subsection shall modify or reduce the ability of courts to order remittiturs.

(4) APPLICATION BY COURT.—This subsection shall be applied by the court and application of this subsection shall not be disclosed to the jury. Nothing in this subsection shall authorize the court to enter an award of punitive damages in excess of the jury's initial award of punitive damages.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 109. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 108, but only during such time as the State law so provides. This section shall cease to be effective September 1, 1997.

SEC. 110. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action, the liability of each defendant for

noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1997".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier;

(iii) a person alleging harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel, except that—

(I) neither the exclusion provided by this clause nor any other provision of this Act may be construed as a finding that silicone gel (or any other form of silicone) may or may not cause harm; and

(II) the existence of the exclusion under this clause may not—

(aa) be disclosed to a jury in any civil action or other proceeding; and

(bb) except as necessary to establish the applicability of this Act, otherwise be presented in any civil action or other proceeding; or

(iv) any person who acts in only a financial capacity with respect to the sale of an implant.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an indiviudal;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to

section 501(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28. United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. EFFECT OF COURT OF APPEALS DECISIONS.

A decision by a Federal circuit court of appeals interpreting a provision of this Act (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 302. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 303. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of the enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

By Ms. SNOWE (for herself, Mr. GRASSLEY, Mr. GLENN, Mr. D'AMATO, Mr. INOUYE, Mr. ROCKEFELLER and Mr. MACK):

S. 649. A bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare program; to the Committee on Finance.

THE BONE MASS MEASUREMENT STANDARDIZATION ACT OF 1997

• Ms. SNOWE. Mr. President, today I am introducing the Bone Mass Measurement Standardization Act of 1997.

Millions of women in their post-menopausal years face a silent killer, a stalker disease we know as osteoporosis. This unforgiving bone disease afflicts 28 million Americans;

causes 50,000 deaths each year; 1.5 million bone fractures annually; and the direct medical costs of osteoporosis fracture patients are $13.8 billion each year, or $38 million every single day. This cost is projected to reach $60 billion by the year 2020 and $240 billion by the year 2040 if medical research has not discovered an effective treatment.

The facts also show that one out of every two women have a lifetime risk of bone fractures due to osteoporosis, and that it affects half of all women over the age of 50 and an astounding 90% of all women over 75. Perhaps the most tragic consequences of osteoporosis occur with the 300,000 individuals annually who suffer a hip fracture. Twelve to thirteen percent of these persons will die within six months following a hip fracture, and of those who survive, 20% will never walk again, and 20% will require nursing home care—often for the rest of their lives.

We all know that osteoporosis cannot be cured, although with a continued commitment to research in this area I remain hopeful that we will find one. We also know that once bone mass is lost, it cannot be replaced. Therefore, early detection is our best weapon because it is only through early detection that we can thwart the progress of the disease and initiate preventive efforts to stop further loss of bone mass.

Bone mass measurement can be used to determine the status of a person's bone health and to predict the risk of future fractures. These tests are safe, painless, accurate and quick. Our expanding technology is adding new methods to determine bone mass and we need to keep up with this technology. The most commonly used test currently is DXA (Dual energy X-ray Absorptiometry).

In order to ensure that we detect bone loss early, we need to ensure that older women have coverage for bone mass tests. Unfortunately, Medicare coverage is inconsistent in its coverage depending on where an individual resides. Instead of national coverage of the DXA test, Medicare leaves coverage decisions to local Medicare insurance carriers. The definition of who is qualified to receive a bone mass measurement varies from carrier to carrier. Some carriers require beneficiaries to have suffered substantial bone loss before allowing coverage for a bone density test. For example, in about 20 States, the carriers require x-ray proof of low bone mass or other abnormalities. Unfortunately, standard x-rays do not reveal osteoporosis until 25 to 40 percent of bone mass has been lost.

One carrier allows pre-menopausal women to have a DXA test to determine whether hormone replacement therapy is indicated. However, it does not allow the test to determine treatment for the post-menopausal women—the majority of Medicare beneficiaries. Other carriers have no specific rules to guide reimbursement and cover the tests on a haphazard case-by-case basis.

Frequency of testing also varies from carrier to carrier. Re-testing is important to monitor treatment, yet only eight states specifically allow coverage for people who are under treatment for osteoporosis.

This patchwork coverage is confusing to beneficiaries, and means that an older woman who lives in one State will be covered, but if she moves to another state, she may not be. A woman may also lose coverage if she moves to another city within a given State.

Mr. President, a woman shouldn't have to change zip codes to obtain coverage for a preventive test, especially when early intervention is the only action we can take right now to slow the loss of bone mass. Once it is lost, it cannot be replaced.

The Medicare Bone Mass Measurement Standardization Act will clarify the Medicare coverage policy for DXA testing to make it uniform in all states. We all know that an ounce of prevention is worth a pound of cure. This bill will ensure that older women, regardless of where they live, will have access to bone mass measurement technology that will help detect bone loss and allow preventive steps to be taken. I urge my colleagues to support this important bill.●

● Mr. GRASSLEY. Mr. President, I am pleased to join my colleague from Maine, Senator SNOWE, to introduce legislation to standardize Medicare eligibility for the diagnosis of osteoporosis. It is estimated that osteoporosis results in 1.5 million fractures and $20 billion in medical costs each year. The Centers for Disease Control and Prevention, through the use of 1992 incidence data of bone fractures related to osteoporosis, determined that such fractures represent three percent of all Medicare costs. A recent report issued by the Alliance for Aging Research examined the dramatic savings realized when the onset of age-related disability is delayed. The report indicates that delaying the onset of osteoporosis by 5 years could save the economy up to as much as $10 billion annually.

In the state of Iowa, 15 percent of men and women over the age of 50, which is approximately 340,000 Iowans, have osteoporosis. Women are particularly prone to getting osteoporosis, which can lead to bone fractures that result in loss of independence and eventually to nursing home care. Early detection is critical, and there are effective treatments available to prevent bone mass deterioration. An ounce of prevention is worth a pound of cure.

Medicare currently covers bone mass measurement, which is the diagnostic tool used to detect osteoporosis. However, Medicare carriers have discretion regarding eligibility requirements. States cover bone mass measurement on a case-by-case basis; some States cover it when an individual is in the early stages of or already has the disease; and some States allow early detection of the disease based on whether or not the patient is at high risk of developing osteoporosis.

Medicare carriers in states such as Iowa and Maine promote early detection of osteoporosis by covering bone mass measurement for individuals at-risk of the disease. However, carriers in more than half the States do not allow testing until the person already has the disease or is at very high-risk of getting it.

The legislation I am co-sponsoring with Senator SNOWE would help reduce the economic and social costs of osteoporosis through early detection of this crippling disease. The bill would establish uniform eligibility requirements for coverage of bone mass measurement, eliminating the variation in Medicare coverage that currently exists. It would not require that every individual be screened for the disease, only those that are considered at-risk. Medicare is a federal program where everyone pays 2.9 percent of their pay. Therefore, everyone deserves to have access to the same benefits.

I congratulate my colleague, Senator SNOWE, for taking the lead on this very important health issue. I urge my colleagues on both sides of the aisle to support this legislation.●

By Mr. NICKLES:

S. 650. A bill to amend the Internal Revenue Code of 1986 to reduce estate taxes by providing a 20 percent rate of tax on estates exceeding $1,000,000, and a 30 percent rate of tax on estates exceeding $10,000,000, and for other purposes; to the Committee on Finance.

THE ESTATE TAX REDUCTION ACT OF 1997

Mr. NICKLES. Mr. President, an April 15, 1997 letter to the Wall Street Journal, which I will insert for the RECORD, describes one family's recent experience with the estate tax.

The letter states, "We finally did it. We didn't want to, but we had no choice. Exactly nine months after my father-in-law died, my wife and I signed a check for $1,285,000 payable to the Internal Revenue Service."

The man who wrote this letter goes on to talk about what his family could have used that money for, such as buying a beach house, prepaying their kids' college education, or even retiring.

Instead, he calculates that the federal government will spend in 26.8 seconds what took his father-in-law 75 years to accumulate.

After I read this letter, I decided to do some calculations of my own. In 1997, the federal government will collect $19.2 billion in estate taxes from 37,200 Americans. The federal government will spend that $19.2 billion in 4.3

days. Assuming each of those decedents was 70 years old when they died, that represents more than 2.6 million years' worth of work and savings which will be wiped-out forever and spent by the government in less than five days.

Mr. President, some people mistakenly believe estate taxes only affect the rich. In the Washington Post this week, Deputy Treasury Secretary Larry Summers says in response to a question about the estate tax, "You have to raise revenue somewhere, and ability to pay seems like a good way to do it."

The truth is that there are thousands of small businesses and farms throughout the country owned and operated by middle-income Americans that are affected by the estate tax. In Oklahoma alone, statistics from the U.S. Census of Agriculture indicate that over 7,500 farms and ranches have a value that could trigger estate tax. Even those who do not end up paying the tax will spend thousands of dollars planning to avoid it or insuring against it.

What is the ultimate impact of all this uneconomic activity? According to the Small Business Administration, only 30 percent of family businesses are passed down to a second generation, and only 13 percent make it to a third generation.

It does not take a lot of success in business or investing these days to become a "taxable estate" in the eyes of Uncle Sam. With the explosive growth in mutual fund investments over the last several years, and the corresponding increase in stock prices, workers will retire and discover their pension plan to be much larger than they had anticipated. Aggressive business owners who reinvest all their profits back into their business will find themselves asset-rich and cash-poor.

Under current law, a taxable estate of $1 million faces a marginal tax rate of 39 percent. A taxable estate of $3 million qualifies you for a confiscatory 55 percent marginal tax rate. A tax credit limits the tax on the first $600,000 of the estate.

If a person starts a small business—be it a farm, a restaurant, or a car dealership—and they work hard, expand, and become successful, why should Uncle Sam be entitled to 39 percent or 55 percent of it? What did the government do to build that business?

This business owner has already paid annual income tax (twice if organized as a corporation), self-employment tax, FICA tax, FUTA tax, and capital gains tax. Why should the Government come in and say, after all these taxes are paid, "We want over half of everything that's left"?

Mr. President, the current estate tax is unfair and it is counterproductive. In the long term, it needs to be repealed. In the short term, it needs to be dramatically changed.

I am introducing legislation today which represents dramatic change in the short term and provides a steppingstone to eventual repeal. My bill goes right to the basic problem, which is estate tax rates. With seventeen marginal tax rate brackets ranging from 18 percent to 55 percent, estate tax rates are too complex and too high.

Under my legislation, taxable estates and gifts under $1 million will pay no tax, taxable estates and gifts from $1 million to $10 million will be taxed at a marginal rate of 20 percent, and taxable estates and gifts over $10 million will be taxed at a marginal rate of 30 percent.

Mr. President, this legislation benefits all taxpayers by simplifying the structure of the estate tax and reducing the number of tax brackets from seventeen to three. Further, by increasing the basic exemption from $600,000 to $1 million, it will reduce the number of estates subject to taxation by more than 40 percent and greatly reduce the need for and cost of estate tax planning.

The benefits of this legislation are also progressive. A taxable estate worth $1 million will have its tax liability completely eliminated. A taxable estate worth $5 million will receive a 64 percent reduction in tax liability, and a taxable estate worth $50 million will receive a 50 percent reduction in tax liability.

Finally, the benefits of this legislation are fair. It does not single-out certain types of estate assets for preferential treatment, and thus avoids the problems of picking winners and losers.

The enactment of estate tax reform this year will not be very easy, Mr. President, despite broad, bipartisan support in the Senate and the House. The Clinton administration continues to block estate tax reform with partisan, class-warfare rhetoric. In the Washington Post article I mentioned earlier about estate tax reform, Deputy Secretary Summers even said, "When it comes to the estate tax, there is no case other than selfishness."

I find that statement offensive, and I wonder if President Clinton agrees with his lieutenant. Is passing your life's work on to your children is "selfish"?

I encourage all my colleagues to read the letter I submitted with my statement today and ask themselves, "Is our estate tax policy promoting freedom, family, and opportunity, or does it just promote the redistribution of wealth?"

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 650

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 "Estate Tax Reduction Act of 1997".

SEC. 2. 20 PERCENT RATE OF TAX ON ESTATES EXCEEDING $1,000,000; 30 PERCENT RATE OF TAX ON ESTATES EXCEEDING $10,000,000.

(a) IN GENERAL.—Section 2001(c) of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended to read as follows:

"(c) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:.	The tentative tax is:
Not over $10,000,000	20 percent.
Over $10,000,000	$2,000,000 plus 30 percent of the excess over $10,000,000.".

(b) INCREASE IN UNIFIED CREDIT.—

(1) IN GENERAL.—Section 2010(a) of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "$200,000".

(2) GIFT TAX CREDIT.—Section 2505(a)(1) of such Code (relating to unified credit against gift tax) is amended by striking "$192,800" and inserting "$200,000".

(3) CONFORMING AMENDMENTS.—

(A) Section 2102(c)(3)(A) of such Code is amended by striking "$192,800" and inserting "$200,000".

(B) Section 6018(a)(1) of such Code is amended by striking "$600,000" and inserting "$1,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

[From the Wall St. Journal, Apr. 15, 1997]

ELIMINATE THE MIDDLEMAN

(By Sanford F. Young)

We finally did it. We didn't want to, but we had no choice.

Exactly nine months after my father-in-law died, my wife and I signed a check for $1,285,000, payable to the Internal Revenue Service.

Now, you may ask what we are complaining about. After all, we were born into enlightened, liberal upper-middle-income families in the 1950s. Our fathers extolled our obligation to pay taxes so that the government can provide for the less fortunate. Indeed, it may have been those principles that dissuaded my father-in-law from engaging in any estate planning. So we had to sign away—in addition to state inheritance taxes, deferred income taxes, excise taxes and countless legal and accounting fees incurred just so we could compute how much tax we must pay—the great bulk of my father-in-law's estate.

Having had the privilege of holding on to this much money for these past months—as executors of the estate we are legally obligated to accumulate and preserve the assets for paying taxes—we dreamed of what we could have done with the funds: buy a beach house, prepay our kids' college education, even quit our jobs and retire. Instead, the reality of how fast that money will be spent by the government is hammered home by the giant billboard tallying government debt at the intersection of Sixth Avenue and 43rd Street in New York. I calculate that the federal government will spend in 26.8 seconds what took my father-in-law 75 years to accumulate—after the taxes he paid during his lifetime. Not a satisfying thought.

We thus propose the following: Rather than paying my father-in-law's hard-earned money to the government, which acts as no more than a greedy and inefficient middleman between the haves and have-nots, it should simply identify three of the neediest

families and let us hand over a half-million dollars or so to each. This way we can know that my father-in-law's money will make a difference. And at least someone would give my father-in-law a posthumous thank-you.

NICKLES ESTATE TAX PROPOSAL

	Current law					Proposal					Impact	
	Marginal tax rate (%)	Tax before unified credit	Unified credit	Tax after unified credit	Effective tax rate	Marginal tax rate (%)	Tax before unified credit	Unified credit	Tax after unified credit	Effective tax rate	Reduction in tax liability	As a % of current law
Taxable estate:												
10,000	18	1,800	192,800	0	0	20	2,000	200,000	0	0	.....	.....
20,000	20	3,800	192,800	0	0	20	4,000	200,000	0	0	.....	.....
40,000	22	8,200	192,800	0	0	20	8,000	200,000	0	0	.....	.....
60,000	24	13,000	192,800	0	0	20	12,000	200,000	0	0	.....	.....
80,000	26	18,200	192,800	0	0	20	16,000	200,000	0	0	.....	.....
100,000	28	23,800	192,800	0	0	20	20,000	200,000	0	0	.....	.....
150,000	30	38,800	192,800	0	0	20	30,000	200,000	0	0	.....	.....
250,000	32	70,800	192,800	0	0	20	50,000	200,000	0	0	.....	.....
500,000	34	155,800	193,800	0	0	20	100,000	200,000	0	0	.....	.....
750,000	37	248,300	192,800	55,500	7	20	150,000	200,000	0	0	(55,500)	−100
1,000,000	39	345,800	192,800	153,000	15	20	200,000	200,000	0	0	(153,000)	−100
1,250,000	41	448,300	192,800	255,500	20	20	250,000	200,000	50,000	4	(205,500)	−80
1,500,000	43	555,800	192,800	363,000	24	20	300,000	200,000	100,000	7	(263,000)	−72
2,000,000	45	780,800	192,800	588,000	29	20	400,000	200,000	200,000	10	(388,000)	−66
2,500,000	49	1,025,800	192,800	833,000	33	20	500,000	200,000	300,000	12	(533,000)	−64
3,000,000	53	1,290,800	192,800	1,098,000	37	20	600,000	200,000	400,000	13	(698,000)	−64
5,000,000	55	2,390,800	192,800	2,198,000	44	20	1,000,000	200,000	800,000	16	(1,398,000)	−64
10,000,000	55	5,140,800	192,800	4,948,000	49	20	2,000,000	200,000	1,800,000	18	(3,148,000)	−64
20,000,000	55	11,000,000	0	11,000,000	55	30	5,000,000	200,000	4,800,000	24	(6,200,000)	−56
50,000,000	55	27,500,000	0	27,500,000	55	30	14,000,000	200,000	13,800,000	28	(13,700,000)	−50
100,000,000	55	55,000,000	0	55,000,000	55	30	29,000,000	200,000	28,800,000	29	(26,200,000)	−48

Replace the current unified transfer tax rate structure with two rates, 20% under $10 million and 30% over $10 million. Increase the unified credit equivalent to $1 million.
Staff estimates assume reductions are fully phased-in.

ESTATE TAX REFORM COMPARISION—$1 MILLION ESTATE

S. 2 increases the basic exemption to $1 million, excludes 100% of the first $1.5 million in family business assets, and excludes 50% of any remaining family business assets.

S. 479 increases the unified credit equivalent to $1 million, excludes 100% of the first $1.5 million in family business assets, and excludes 50% of the next $8.5 million in family business assets.

The Nickles Plan imposes no tax on estates up to $1 million, taxes estates up to $10 million at 20%, and taxes estates over $10 million at 30%.

	Current law	S. 2	S. 479	Nickles Plan
ALL FAMILY BUSINESS				
Family business assets	1,000,000	1,000,000	1,000,000	1,000,000
Other assets	0	0	0	0
Total estate	1,000,000	1,000,000	1,000,000	1,000,000
Family business exclusion	([1])	(1,000,000)	(1,000,000)	([1])
Taxable estate	1,000,000	0	0	1,000,000
Tax before unified credit	345,800	0	0	200,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	153,000	0	0	0
Effective tax rate (percent)	15	0	0	0
NO FAMILY BUSINESS				
Family business assets	0	0	0	0
Other assets	1,000,000	1,000,000	1,000,000	1,000,000
Total estate	1,000,000	1,000,000	1,000,000	1,000,000
Family business exclusion	([1])	0	0	([1])
Taxable estate	1,000,000	1,000,000	1,000,000	1,000,000
Tax before unified credit	345,800	345,800	345,800	200,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	153,000	0	0	0
Effective tax rate (percent)	15	0	0	0
SPLIT				
Family business assets	500,000	500,000	500,000	500,000
Other assets	500,000	500,000	500,000	500,000
Total estate	1,000,000	1,000,000	1,000,000	1,000 000
Family business exclusion	([1])	(500,000)	(500,000)	([1])
Taxable estate	1,000,000	500,000	500,000	1,000,000
Tax before unified credit	345,800	155,800	155,800	200,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	153,000	0	0	0
Effective tax rate (percent)	15	0	0	0

[1]Not applicable.
Note.—For simplicity, the current law phase-out of the unified credit and marginal rate benefits for estates between $10,000,000 and $21,040,000 is not computed in these examples.

ESTATE TAX REFORM COMPARISON—$5 MILLION ESTATE

S. 2 increases the basic exemption to $1 million, excludes 100% of the first $1.5 million in family business assets, and excludes 50% of any remaining family business assets.

S. 479 increases the unified credit equivalent to $1 million, excludes 100% of the first $1.5 million in family business assets, and excludes 50% of the next $8.5 million in family business assets.

The Nickles Plan imposes no tax on estates up to $1 million, taxes estates up to $10 million at 20%, and taxes estates over $10 million at 30%.

	Current law	S. 2	S. 479	Nickles Plan
ALL FAMILY BUSINESS				
Family business assets	5,000,000	5,000,000	5,000,000	5,000,000
Other assets	0	0	0	0
Total estate	5,000,000	5,000,000	5,000,000	5,000,000
Family business exclusion	([1])	(3,250,000)	(3,250,000)	([1])
Taxable estate	5,000,000	1,750,000	1,750,000	5,000,000
Tax before unified credit	2,398,000	668,300	668,300	1,000,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	2,205,200	322,500	322,500	800,000

	Current law	S. 2	S. 479	Nickles Plan
Effective tax rate (percent)	44	6	6	16
NO FAMILY BUSINESS				
Family business assets	0	0	0	0
Other assets	5,000,000	5,000,000	5,000,000	5,000,000
Total estate	5,000,000	5,000,000	5,000,000	5,000,000
Family business exclusion	([1])	0	0	([1])
Taxable estate	5,000,000	5,000,000	5,000,000	5,000,000
Tax before unified credit	2,398,000	2,398,000	2,398,000	1,000,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	2,205,200	2,052,200	2,052,200	800,000
Effective tax rate (percent)	44	41	41	16
SPLIT				
Family business assets	2,500,000	2,500,000	2,500,000	2,500,000
Other assets	2,500,000	2,500,000	2,500,000	2,500,000
Total estate	5,000,000	5,000,000	5,000,000	5,000,000
Family business exclusion	([1])	(2,000,000)	(2,000,000)	([1])
Taxable estate	5,000,000	3,000,000	3,000,000	5,000,000
Tax before unified credit	2,398,000	1,298,000	1,298,000	1,000,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	2,205,200	952,200	952,200	800,000
Effective tax rate (percent)	44	19	19	16

[1]Not applicable.
Note.—For simplicity, the current law phase-out of the unified credit and marginal rate benefits for estates between $10,000,000 and $21,040,000 is not computed in these examples.

ESTATE TAX REFORM COMPARISON—$50 MILLION ESTATE

S. 2 increases the basic exemption to $1 million, excludes 100% of the first $1.5 million in family business assets, and excludes 50% of any remaining family business assets.

S. 479 increases the unified credit equivalent to $1 million, excludes 100% of the first $1.5 million in family business assets, and excludes 50% of the next $8.5 million in family business assets.

The Nickles Plan imposes no tax on estates up to $1 million, taxes estates up to $10 million at 20%, and taxes estates over $10 million at 30%.

	Current law	S. 2	S. 479	Nickles Plan
ALL FAMILY BUSINESS				
Family business assets	50,000,000	50,000,000	50,000,000	50,000,000
Other assets	0	0	0	0
Total estate	50,000,000	50,000,000	50,000,000	50,000,000
Family business exclusion	([1])	(25,750,000)	(5,750,000)	([1])
Taxable estate	50,000,000	24,250,000	44,250,000	50,000,000
Tax before unified credit	27,148,000	12,985,500	23,985,500	14,000,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	26,955,200	12,639,700	23,639,700	13,800,000
Effective tax rate (percent)	54	25	47	28
NO FAMILY BUSINESS				
Family business assets	0	0	0	0
Other assets	50,000,000	50,000,000	50,000,000	50,000,000
Total estate	50,000,000	50,000,000	50,000,000	50,000,000
Family business exclusion	([1])	0	0	([1])
Taxable estate	50,000,000	50,000,000	50,000,000	50,000,000
Tax before unified credit	27,148,000	27,148,000	27,148,000	14,000,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	26,955,200	26,802,200	26,802,200	13,800,000
Effective tax rate (percent)	54	54	54	28
SPLIT				
Family business assets	25,000,000	25,000,000	25,000,000	25,000,000
Other assets	25,000,000	25,000,000	25,000,000	25,000,000
Total estate	50,000,000	50,000,000	50,000,000	50,000,000
Family business exclusion	([1])	(13,250,000)	(5,750,000)	([1])
Taxable estate	50,000,000	36,750,000	44,250,000	50,000,000
Tax before unified credit	27,148,000	19,860,500	23,985,500	14,000,000
Unified credit	192,800	345,800	345,800	200,000
Tax after UC	26,955,200	19,514,700	23,639,700	13,800,000
Effective tax rate (percent)	54	39	47	28

[1]Not applicable.
Note.—For simplicity, the current law phase-out of the unified credit and marginal rate benefits for estates between $10,000,000 and $21,040,000 is not computed in these examples.

By Mr. ALLARD:

Senate Joint Resolution 28. A joint resolution proposing an amendment to the Constitution of the United States granting the President the authority to exercise an item veto of individual appropriations in an appropriations bill; to the Committee on the Judiciary.

THE LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

• Mr. ALLARD. Mr. President, today I am pleased to introduce a line-item veto constitutional amendment.

This action is particularly timely in light of the decision by a Federal district court judge which declared the recently enacted statutory line-item veto, or more accurately, enhanced rescission authority, to be unconstitutional.

This judge's decision may be overturned, or Congress may be able to modify the language in a way that satisfies the courts. Baring either of these, a line-item veto can only be provided by amending the Constitution.

Fortunately, Congress provided for expedited judicial review of the constitutionality of the 1996 Line Item Veto legislation, and the Supreme Court has agreed to hear arguments in the case next month, and to render a decision by July.

Prior to my election to the Senate I served in the House of Representatives. In that body I introduced a constitutional line-item veto on several occasions. This was motivated by my view that the greatest threat to our economy is the continued deficits which Congress piles on top of the accumulated $5.3 trillion national debt.

Obviously, the budget system that we have in place is not working. We need a balanced budget amendment and a line-item veto.

Last year, Congress gave the President what is generally referred to as expanded rescission authority. The Republican Congress committed to give this authority to whoever was elected President in 1996, Democrat or Republican. It was immaterial to us, our objective was to provide a bi-partisan tool to help eliminate wasteful spending beginning on January 1, 1997.

Last year's legislation was an expansion of the very limited rescission authority granted to the President in 1974 under the Impoundment Control Act. Under that earlier statute, the President could indicate items in the budget that he wanted to rescind, but he was required to obtain the support of both Houses of Congress in order for the rescission to actually be enacted. The budget history of the past two decades demonstrates better than I could why this is akin to the fox guarding the henhouse.

The Line-Item Veto Act reversed this burden and required the Congress to disapprove any rescissions identified by the President within 30 days. If this deadline was not met, then the item was eliminated.

This new authority permitted three types of rescissions. First, discretionary appropriations could be rescinded. Discretionary spending is about one-third of the budget and is where most of what is considered pork barrel spending occurs.

Second, the law permitted the rescission of any new item of entitlement spending. While currently existing entitlements would be exempt, any new item could be stricken—entitlements constitute the remaining two-thirds of the budget and is certainly the fastest growing portion of the budget.

Finally, certain limited tax benefits could be rescinded. These limited tax provisions were generally defined as provisions that provided a federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries.

The judge who ruled the line item veto statute unconstitutional focused on the fact that the cancellation or rescission authority under the statue exists only after the President signs a bill. He has up to 5 days after signature to identify these rescissions. The judge concluded that this was an unconstitutional delegation of Congressional power.

I find this reasoning puzzling since the statute was crafted in a manner that Congress believed to be consistent with past Supreme Court decisions concerning Congressional delegation of authority. The statute also provides nearly identical authority to the impoundment authority held by all Presidents from George Washington up through 1974 when Congress voted to deny this authority to future presidents.

Obviously, we will hear the final word on this in July. One thing however, is certain. The authority given to the President last year was different from that authority held by 43 state governors. In the states the governor has the explicit authority to line item veto provisions in a bill as part of the actual bill-signing process.

I believe it is time that we take the approach of the states. In order to do this we must enact a Constitutional Amendment. Under article I, section 7 of the Constitution, the President's veto authority has been interpreted to mean that he must sign or veto an entire piece of legislation—he cannot pick and choose.

This language reads: "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, . . ." this section then proceeds to outline the procedures by which Congress may override this veto with a two-thirds vote of both houses.

The amendment that I am introducing today amends this language as it pertains to appropriations bills. It specifically provides that the President shall have the power to disapprove any appropriation of an appropriations bill at the time the President approves the bill.

This change will make explicit that the President is no longer confined to either vetoing or signing an entire bill, but that he may choose to single out certain appropriations for veto and still sign a portion of the bill.

I noted earlier that 43 state governors have some type of line item veto. This is consistent with the approach taken in most state constitutions of providing a greater level of detail concerning the budget process than is contained in the U.S. Constitution. In my view, the line item veto has been an important factor in the more responsible budgeting that occurs at the state level.

Colorado is one of the states that gives line item veto authority to the governor. That power, along with a balanced budget requirement in the state constitution, has worked well and insured that Colorado has been governed in a fiscally responsible manner regardless of who served in the legislature or in the governor's office.

Mr. President, I look forward to further discussion on this important issue. I realize that the Supreme Court may overturn the lower court decision and declare the line item veto statute constitutional. However, in my mind, this is no substitute for moving ahead on a constitutional amendment. It is time to eliminate the uncertainly, and provide for explicit line item veto authority for the President.●

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. NICKLES, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 28

At the request of Mr. THURMOND, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 222

At the request of Mr. DOMENICI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 222, a bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 311

At the request of Mr. GRAHAM, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 311, a bill to amend title XVIII of the Social Security Act to improve preventive benefits under the medicare program.

S. 317

At the request of Mr. CRAIG, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 347

At the request of Mr. CLELAND, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 347, a bill to designate the Federal building located at 100 Alabama Street NW, in Altanta, Georgia, as the "Sam Nunn Federal Center".

S. 413

At the request of Mrs. HUTCHISON, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 415

At the request of Mr. BAUCUS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 415, a bill to amend the medicare program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 436

At the request of Mr. ROTH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 436, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes.

S. 476

At the request of Mr. HATCH, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 476, a bill to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000.

S. 562

At the request of Mr. D'AMATO, the names of the Senator from Nevada [Mr. REID], the Senator from Montana [Mr. BURNS), and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 562, a bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage.

S. 563

At the request of Mr. SANTORUM, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 563, a bill to limit the civil liability of business entities that donate equipment to nonprofit organizations.

S. 564

At the request of Mr. SANTORUM, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 564, a bill to limit the civil liability of business entities providing use of facilities to nonprofit organizations.

S. 565

At the request of Mr. SANTORUM, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 565, a bill to limit the civil liability of business entities that make available to a nonprofit organization the use of a motor vehicle or aircraft.

S. 566

At the request of Mr. SANTORUM, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 566, a bill to limit the civil liability of business entities that provide facility tours.

S. 570

At the request of Mr. NICKLES, the names of the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Kentucky [Mr. MCCONNELL) were added as cosponsors of S. 570, a bill to amend the Internal Revenue Code of 1986 to exempt certain small businesses from the mandatory electronic fund transfer system.

S. 572

At the request of Mr. ALLARD, the names of the Senator from Nebraska [Mr. HAGEL], the Senator from Wyoming [Mr. ENZI], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 572, a bill to amend the Internal Revenue Code of 1986 to repeal restrictions on taxpayers having medical savings accounts.

S. 606

At the request of Mr. HUTCHINSON, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 606, a bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors.

SENATE CONCURRENT RESOLUTION 23—HONORING THE LIFETIME ACHIEVEMENTS OF JACKIE ROBINSON

Mr. MCCAIN submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation.

S. CON. RES. 23

Whereas Jackie Robinson was the first four sport letterman at the University of California at Los Angeles;

Whereas on April 15, 1947, Jackie Robinson was the first African-American to cross the color barrier and play for a major league baseball team;

Whereas Jackie Robinson, whose career began in the Negro Leagues, went on to be named Rookie of the Year and subsequently led the Brooklyn Dodgers to six National League pennants and a World Series championship;

Whereas Jackie Robinson's inspiring career earned him recognition as the first African-American to win a batting title, lead the league in stolen bases, play in an All-Star game, win a Most Valuable Player award, play in the World Series and be elected to baseball's Hall of Fame;

Whereas after retiring from baseball Jackie Robinson was active in the civil rights movement and founded the first bank owned by African-Americans in New York City;

Whereas his legacy continues to uplift the Nation through the Jackie Robinson Foundation that has provided 425 scholarships to needy students;

Whereas Jackie Robinson's courage, dignity, and example taught the Nation that what matters most is not the color of a man's skin but rather the content of his character;

Whereas Jackie Robinson, in his career, consistently demonstrated that how you play the game is more important than the final score;

Whereas Jackie Robinson's life and heritage help make the American dream more accessible to all; and

Whereas April 15, 1997, marks the 50th anniversary of Jackie Robinson's entrance into major league baseball: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

That the achievements and contributions of Jackie Robinson be honored and celebrated; that his dedication and sacrifice be recognized; and that his contributions to African-Americans and to the Nation be remembered.

Mr. MCCAIN. Mr. President, today I submit a Senate concurrent resolution honoring the lifetime achievements of Jackie Robinson. I urge its immediate consideration.

After an already distinguished career in the Negro League, Jackie Robinson became the first African-American to play major league professional baseball and one of the best individuals ever to play the game. Just over 50 years ago, Mr. Robinson animated for the entire country the simple premise on which our Nation was founded—that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. Given that this animation occurred more than a decade and a half before Martin Luther King reminded us that man should be judged not by the color of his skin but by the content of his character, Mr. Robinson's accomplishments were truly great.

As his biographers have noted, Jackie Robinson began playing major league baseball 7 years before the historic Brown versus Board of Education Supreme Court ruling, 18 years before voter registration drives in Selma, Alabama. And 18 years before passage of the Voter Rights Act of 1965.

At a time when African Americans were still being forced to walk to the back of the bus, Jackie Robinson was walking up to the plate and receiving cheers of Americans from all walks of life. But for the cheers given the efforts of Jackie Robinson, I doubt we would have heard the cheers given to Arthur Ashe, Michael Jordon, and Tiger Woods.

While Jackie Robinson is best known for being the first African-American to play major league baseball, his entire life was full of achievements. These are all detailed in this resolution.

Jackie Robinson was the first four sport letterman at the University of California at Los Angeles.

Jackie Robinson was named Rookie of the Year and subsequently led the Brooklyn Dodgers to six National League pennants and a World Series championship.

Jackie Robinson's career earned him recognition as the first African-American to win a batting title, lead the league in stolen bases, play in an All-Star game, win a Most Valuable Player Award, play in the World Series and be elected to baseball's Hall of Fame.

Beyond his accomplishments in baseball, Jackie Robinson was active in the civil rights movement and founded the first bank owned by African-Americans in New York city.

Jackie Robinson's legacy continues to uplift the Nation through the Jackie Robinson Foundation that has provided 425 scholarships to needy students.

It is difficult to list the many heights obtained by Jackie Robinson. He was as successful off the playing field as he was on. It is fitting for the Congress of the United States to honor and celebrate the achievements and contributions of Jackie Robinson; that his dedication and sacrifice be recognized; and

that his contributions to African-Americans and to the Nation be remembered.

SENATE RESOLUTION 78—NATIONAL ERASE THE HATE AND ELIMINATE RACISM DAY

Mr. BURNS (for himself, Mr. BAUCUS, Ms. COLLINS, Mr. KEMPTHORNE, Mr. FAIRCLOTH, Mr. BINGAMAN, Mr. DEWINE, Mr. HATCH, Mr. GRASSLEY, Mr. WARNER, Mr. CLELAND, Mr. GORTON, Mr. ABRAHAM, Ms. LANDRIEU, Mr. REID, Mr. LIEBERMAN, Mr. DODD, Mr. MURKOWSKI, Mr. D'AMATO, Mr. KENNEDY, Mr. KERREY, Mr. LEVIN, Mr. GRAMM, Mr. KERRY, Mr. LUGAR, and Mr. MOYNIHAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 78

Whereas the term "hate crime" means an offense in which one or more individuals, commits an offense (such as an assault or battery (simple or aggrevated), theft, criminal trespass, damage to property, mob action, disorderly conduct, or telephone harassment) by reason of the race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals;

Whereas there are almost 8,000 hate crimes reported to the Department of Justice each year, and the number of hate crimes reported increases each year;

Whereas hate crimes have no place in a civilized society that is dedicated to freedom and independence, as is the United States;

Whereas the people of the United States must lead and set the example for the world in protecting the rights of all people;

Whereas the people of the United States should take personal responsibility for and action against hatred and hate crimes;

Whereas the Members of Congress, as representatives of the people of the United States, must take personal responsibility for and action against hatred and hate crimes;

Whereas the laws against hate crimes, which have been passed by Congress and signed by the President, must be supported and implemented by the people of the United States and by Federal, State, and local law enforcement officials and other public servants: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 1997, as "National Erase the Hate and Eliminate Racism Day"; and

(2) requests that the President issues a proclamation calling upon the people of the United States and throughout the world to recognize the importance of using each day as an opportunity to take a stand against hate crimes and violence in their nations, states, neighborhoods, and communities.

Mr. BURNS. Mr. President, I rise today, along with Senator BAUCUS and 23 of our fellow colleagues, to submit a resolution to designate April 30 as "National Erase the Hate and Eliminate Racism Day." We are submitting this measure because, as you may know, a few years ago a series of anti-semitic and racially biased crimes occurred in my home town of Billings, MT. However, instead of ignoring these events, I am proud to say that the community united and worked together to ban these acts of hatred. We are hoping that the American people will learn from Montanans that racism and hate crimes can be done away with if we work together.

According to the United States Department of Justice, there are almost 8,000 racially and biased crimes each year—and unfortunately, this number is rising. Due to this disappointing fact, my colleagues and I have determined that a day should be set aside to bring groups together that will work to begin to heal our Nation from the sins of our past and present.

This day would serve as a day for people in the United States, and throughout the world, to recognize the importance of using every day as an opportunity to take a stand against hate crimes and violence in their neighborhoods, communities, states and nations.

Through this legislation, we hope to reinforce in the American people that our diversity is something to be proud of. A new understanding of our differences would help bring forth a new respect for each other, and this resolution should serve as the vehicle to educate Americans and promote unity throughout our communities and States.

Now, I realize that passage of this measure will not immediately obliterate racism from our country. But it is our responsibility, as Members of this distinguished, elected, body to set an example for the American people by speaking up for what is right and encouraging others to do so.

I would like to offer a special thanks to the YWCA and the Anti-Defamation League for their assistance in garnering support for this measure. Their continued service to the American people in supporting diversity serves as a means to open the doors between divergent groups. They should be acknowledged and praised by all.

We welcome each of our colleagues to join with us to work to eradicate the forces that divide us. Finally, I hope that by April 30, the American people are made aware of our thoughts and that we will work for justice for all.

Mr. BAUCUS. Mr. President, I rise today to submit a resolution which will designate this April 30 as a National Day to Erase the Hate and Eliminate Racism.

In the last couple of years, we Montanans have seen our state come under the microscope of considerable media scrutiny. We've had the arrest of the alleged "Unabomber," the standoff between the FBI and the so-called Freemen outside Jordan, and a series of hate crimes in some of our cities.

And it's appropriate for the press to take a look at these things, while recognizing that many of these incidents are repeated on a larger scale throughout the rest of the country.

What has frustrated me, and many other Montanans, however, is the lack of attention to the vast majority of Montanans—the people who are willing to stand up to bigots and hate groups. For example, take what happened in Billings, Montana, a few years ago.

People in Billings enjoy a high quality of life that only Montana can provide. It is the largest city in Montana, but it still has the feel of a small town. Folks say hello to strangers in the street. Families go to the symphony in Pioneer Park in the summer. And neighbors go out of their way to help someone when they need a hand.

That placid life was shattered in November 1993, when a group of "skinheads" threw a bottle through the glass door of the home of a Jewish family. A few days later they put a brick through the window of another Jewish family's home—with a five-year-old boy in the room. Then they smashed the windows of a Catholic high school that had a "Happy Hanukkah" sign on its marquee.

The people of Billings were horrified. But they did not sit at home and try to ignore the problem. They did not let the hatred take root. The community banded together.

Thousands of homes put Menorahs in their windows. They showed the skinheads that the people of Billings were united against hate. And that year, Billings held the largest Martin Luther King Day march ever in Montana.

And all over Montana, we see more of the same. Whether it is a county attorney who stands up to militia groups in Jordan. Or the unsung people who work in their communities, such as Helena, to stamp out racism and hatred through the Montana Human Rights Network. These are all stories that need to be told.

Recently, the USA Network aired a movie called "Not In This Town," which told the story of these events to the country. I commend the network for bringing this story to the world because it sends two powerful messages. First of all, Montana is no home for bullies and hate-mongers. And second, wherever you live, violence and bigotry do not have to be accepted in your community.

That is why today I am submitting, with my colleague from Montana, Senator BURNS, and many others from across America, a bill which will designate April 30, 1997, as a National Day to Erase the Hate and Eliminate Racism.

I know a simple bill like this one will not end the problems we still have. A piece of paper alone cannot teach a child that hate is wrong.

But I do believe a piece of paper can make people think. It can make people talk about hate crimes. And it can light a spark in people's hearts and minds.

And if we continue to look at the good, courageous, decent things our neighbors are doing, that spark just might catch fire, in Montana and all across the country.

AMENDMENTS SUBMITTED

CHEMICAL WEAPONS CONVENTION RATIFICATION RESOLUTION

BIDEN AMENDMENTS NOS. 47–51

Mr. BIDEN proposed five amendments to the executive resolution (S. Res. 75) to advise and consent to the ratification of the Chemical Weapons Convention, subject to certain conditions; as follows:

AMENDMENT NO. 47

On page 63, strike lines 8 through 20.

AMENDMENT NO. 48

Beginning on page 61, strike line 21 and all that follows through line 7 of page 63.

AMENDMENT NO. 49

Beginning on page 65, strike line 25 and all that follows through line 3 of page 67.

AMENDMENT NO. 50

Beginning on page 63, strike line 21 and all that follows through line 4 of page 65.

AMENDMENT NO. 51

On page 65, strike lines 5 through 24.

HELMS AMENDMENT NO. 52

Mr. HELMS proposed an amendment to the executive resolution, Senate Resolution 75, supra; as follows:

On page 2, line 18, strike "payments" and insert "any payment".

On page 6, line 3, strike "the head of".

On page 8, line 2, insert "or such other organization, as the case may be," after "nization".

On page 8, line 10, insert "or the affiliated organization" after "tion".

On page 9, line 11, insert "or the affiliated organization" after "Organization".

On page 9, line 17, insert "or the affiliated organization" after "Organization".

On page 13, line 21, insert ", and any official or employee thereof" after "it".

On page 14, line 5, insert ", and any official or employee thereof" after "functions".

On page 15, lines 6 and 7, strike "to United States ratification" and insert "affecting the object and purpose".

On page 18, line 2, insert "support for" after "resolution of".

On page 20, line 12, strike "citizens," and insert "citizens and".

On page 23, line 18, strike "obligation" and insert "obligations".

On page 25, line 19, strike the comma.

On page 32, line 13, insert "of Representatives" after "House".

On page 32, lines 19 and 20, strike "Foreign Military Sales, Foreign Military Financing," and insert "Foreign Military Sales and Foreign Military Financing under the Arms Export Control Act".

On page 34, line 1, strike "Committee" and insert "Committees".

On page 34, line 3, insert "the" after "and".

On page 37, line 11, insert a comma immediately after "games".

On page 40, line 9, strike "of" and insert "for".

On page 41, line 16, insert "of the Convention" after "ratification".

On page 47, line 19, insert "the ratification of" after "to".

On page 49, line 5, move the margin of "(i)" 2 ems to the right.

On page 49, line 11, move the margin of "(ii)" 2 ems to the right.

On page 49, line 16, move the margin of "(iii)" 2 ems to the right.

On page 52, line 9, insert a comma after "(D)".

On page 53, line 21, strike the comma.

On page 55, line 4, insert "a schedule of" after "to".

On page 57, line 1, strike "the" the first place it appears and insert "to".

On page 59, line 15, strike the comma.

On page 61, line 11, strike "on an involuntary basis".

On page 61, line 12, insert "where consent has been withheld," after "States,".

On page 8, line 8, insert ", if accepted," after "provision".

On page 25, line 19, insert "on Intelligence" after "tee".

On page 27, line 7, strike "is" and insert "are".

On page 27, line 22, insert "on Intelligence" after "Committee".

On page 57, line 15, strike "Ruanda" and insert "Rwanda".

NOTICE OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Tuesday, April 29, 1997 at 9:30 a.m. in Room 485, Russell Senate Building to mark-up S. 459, a bill to amend the Native American Programs Act of 1974. An Oversight Hearing on P.L. 102–575, the San Carlos Water Rights Settlement Act of 1992 will immediately follow the Business Meeting.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that the oversight hearing to receive testimony from the General Accounting Office on their evaluation of the development of the Draft Tongass Land Management Plan scheduled for Tuesday, April 29, 1997 before the Committee on Energy and Natural Resources will now begin at 10:00 a.m. instead 9:30 a.m. as previously scheduled.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nomination of Elizabeth Anne Moler to be Deputy Secretary of Energy.

The hearing will take place Tuesday, May 6, 1997 at 9:30 a.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

For further information, please call Camille Heninger Flint at (202) 224–5070.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled jointly before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources and the Subcommittee on Forests and Forest Health of the House Committee on Resources.

The hearing will take place Thursday, May 15, 1997 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on the release of the Columbia River Basin Environmental Impact Statement.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

NOTICE OF WORKSHOP

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a workshop has been scheduled before the Subcommittee on Forests and Public Land Management to exchange ideas and suggestions on the proposed "Public Land Management Responsibility and Accountability Restoration Act." The workshop will take place on Thursday, May 22, beginning at 2:00 p.m. in room 366 of the Dirksen Senate Office Building. The topic for this workshop will be to hear testimony regarding community-based solutions that have been tried concerning public land conflicts.

Testimony at these workshops is by invitation only. They are open to the public and the press. For further information, please write to the Subcommittee on Forests and Public Land Management, United States Senate, Washington, D.C. 20510, or call Mark Rey or Judy Brown of the Subcommittee staff at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, April 24, 1997, in executive session to mark up S. 7, the National Missile Defense Act of 1997.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 24, 1997, at 10 a.m. on ISTEA Reauthorization/Truck Safety.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HELMS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, April 24, 1997, at 12:30 p.m. for a hearing on opportunities for management reforms at the National Oceanic Atmospheric Administration.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Overview of Vocational Education, during the session of the Senate on Thursday, April 24, 1997, at 10 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, April 24, 1997, beginning at 9:30 a.m. until business is completed, to hold a hearing to consider revisions to Title 44.

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

COMMITTEE ON SMALL BUSINESS

Mr. HELMS. 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 Non-Credit Programs" on Thursday, April 24, 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. HELMS. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 24, 1997 at 2:00 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing Thursday, April 24, 1997, at 9:30 a.m., on ozone and particulate matter standards proposed by the Environmental Protection Agency.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 24, 1997, at 2:00 p.m. to hold a hearing.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. HELMS. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 24, 1997, at 2 p.m. on reauthorization of the FY98 NASA budget.

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

ADDITIONAL STATEMENTS

MEDICARE

• Mr. FRIST. Mr. President, in 1995, my first year in the U.S. Senate, the Medicare Trustees told Congress that unless it took "prompt effective, and decisive action * * * Medicare will be dead in seven years."

Two years later, another Trustees' report has been delivered to Congress and we are even worse off. We still face the same tough choices. We must balance the budget, restore integrity to the Medicare trust fund, update the Medicare system and provide consumers with more choice—a cornerstone structural change that addresses the long-term viability of the Medicare program.

In the 104th Congress, the U.S. Congress realized that the fundamental way to capture the dynamics of change in the health care system would be to modernize Medicare by opening it to a broader array of private health plans that would compete on the basis of quality and not just cost.

President Clinton embraced this ideal as well by initiating a Medicare Choices demonstration and including provisions to expand choice, although I feel they are limited, in his February budget submission to the U.S. Congress.

Therefore, Senator ROCKEFELLER and I introduced S. 146, the Provider-Sponsored Organization Act of 1997. S. 146 expands the current Medicare risk contracting program to include PSO's, Provider Sponsored Organizations.

A PSO, very simply, is a public or private provider, or group of affiliated providers, organized to deliver a spectrum of health care services under contract to purchasers.

Our bill specifies detailed requirements for certification, quality assurance and solvency to ensure that PSO's contracting with Medicare meet standards that are comparable to or higher than those for health maintenance organizations [HMO's].

Specifically, the bill provides Federal leadership for States to fashion a streamlined PSO approval process that is consistent with Federal standards protecting Medicare beneficiaries.

Second, by providing incentives for PSO's and HMO's to evaluate patterns of care, it promotes state of the art continuous quality improvement.

Third, the bill creates a mechanism by which the Secretary of HHS would be allowed, but not required, to enter into partial risk payment arrangements with PSO's or HMO's.

Fourth, it outlines specific solvency standards for PSO's which reflect the peculiarities of their operating environment.

Now, why are PSO's, to my mind, a good place to start in opening up and modernizing Medicare to offer our seniors and individuals with disabilities more choice of private plan options?

First, and something very close to me as a physician and as one who has spent over 50,000 hours working in hospitals, PSO's will improve quality of health care. The creation of PSO's in the Medicare environment, I am absolutely convinced, will improve quality.

It really goes back to personal experience. But the fundamental reason is that PSO's are the care-givers. PSO's are the physicians, the hospitals, the facilities.

It is those physicians, those care-givers who are on the front line of health care every day. Thus, they are in the best position to control, monitor, and demand quality for that individual patient who walks in through the door.

It is my feeling that in a competitive managed care environment, PSO's will be at the table competing with insurance companies, competing with HMO's. But it is they, because they are the care-givers, that can bring to the table that concern for the individual patient, and demand quality which will have a spill-over effect in the negotiations in the managed care environment. There is an inherent PSO emphasis on quality because the people at the table are the people who are taking care of the individual patient.

The second issue around quality, is that S. 146 requires collective accountability, where quality and cost are measured by overall practice patterns across the entire PSO rather than just case-by-case utilization review.

It used to be that we did not know how to do that. In 1997, we do know how to do that. We look at system-wide

measures of quality. The advantage of system-wide measures, instead of case-by-case utilization, is better use of resources, less intrusiveness in the doctor/patient relationship, and it is state of the art today. It is built into our bill.

S. 146 requires PSO's to meet new, higher quality standards and they must, as spelled out in our bill, have experience in the coordination of care. Thus, we will not see the creation of inexperienced groups coming forward.

That is important because of the so-called 50–50 rule, a standard which is inappropriately used as a surrogate measure for quality, requiring that plans participate in the commercial marketplace.

Well, today, because of the outline of higher quality standards, and because of the requirement for experience with the coordination of care, the 50–50 rule does not apply and would be waived for PSO's.

I should also say that non-PSO Medicare risk contractors, under our bill, would be eligible for waiving this quasi-quality measurement as long as they met the enhanced quality standards spelled out in our bill. Thus, S. 146 sets a new standard for quality assurance, a standard that I feel will set the pace for the rest of the industry.

Mr. President, the Provider Sponsored Organization Act returns to a basic concept that applies a lot to what we are doing in the U.S. Congress today. This bill will empower providers to become, once again, true partners in the clinical decisionmaking process. The PSO really does allow physicians, care-givers, and facilities to once again regain some control over what goes on at that doctor/patient relationship level.

In the U.S. Congress over the last year we have seen bills, like a 48-hour maternity stay bill post-birth, and a proposal for a 48-hour stay after mastectomy. I have even had proposals come forward to me for 5-day bills after heart surgery. Well, obviously the U.S. Congress can go in and try to micromanage body part by body part, but I do not think that is the direction to go.

By bringing care-givers to the table, by reenfranchising them, by allowing them to once again regain participation in the clinical decision-making process, we get out of that business.

Why? Because at the negotiating table in the managed care environment you have physicians and care-givers there speaking for the patient, not allowing just cost to drive what goes on in the managed care environment.

In addition, the PSO option will bring coordinated care to more communities. Again, this is terribly important because we see so much of managed care in urban areas and not in rural areas and not in under-served areas.

This bill very specifically has incentives built in it to encourage participation in those under-served and rural areas. It will very clearly, to my mind, bring managed care, coordinated care, networking of care to those communities where it is not an available choice today.

As you know, managed care has had great difficulty in attracting seniors. We know that about three-quarters of the employed population are enrolled in coordinated/managed care today. But in Medicare, only about 13 percent are enrolled.

Two reasons. Right now, the rigidity of our Medicare system does not allow any other entities besides a very narrowly defined HMO to participate in Medicare. We can agree or disagree whether to open that system up to a broad array of plans. Indeed, I think this first step of a PSO is the most reasonable way to go to begin to expand that choice.

In the State of Tennessee, the majority of Medicare beneficiaries have no choice. There is no HMO, except right in middle Tennessee. There are no other plans. Senior citizens have no choice whatsoever in Tennessee, except in Nashville, where they can choose one plan today.

The second reason, is that our seniors are scared their care is going to be taken away. They are scared to join managed care because they are scared that their local physician will be dropped from the network. Many fear that an HMO or managed care plan might drop their physician once they join it, and that frightens them a great deal.

It only makes sense that Medicare beneficiaries will feel much more secure about coordinated care knowing that they have the choice of a health care plan run by care-givers, run by physicians, nurses, and hospitals who are in their own local community. The Rockefeller/Frist bill will give them that security.

PSO's, as I mentioned, do apply particularly well to rural communities. Because the doctors and hospitals are already in the rural areas, serving the local population, it is easier for them, rather than some outside insurance company maybe located 200 miles away, to organize, network and provide a coordinated care option for seniors in what have been traditionally under-served rural areas.

Finally, given the fact that Medicare's own trustees have reported that the trust fund will soon be bankrupt, Medicare's rate of growth clearly must be slowed. The introduction of PSO's will advance market-based competition within Medicare, which I believe is absolutely essential to the long-term integrity of the entire Medicare Program, both part A and part B.

The Provider Sponsored Organization Act of 1997 builds on the PSO provision included in the Balanced Budget Act of 1995 [BBA]. The BBA created a legal definition of PSO's and developed a definition of "affiliated provider." S. 146 goes one step further. It defines a Medicare Qualified PSO as a PSO that has the capability to contract to provide full benefit, capitated, coordinated care to beneficiaries.

Specific criteria for the direct provision of services by affiliated providers are spelled out in the bill. This ensures that all but a small fraction of contracted services are provided either under affiliation or by participating provider agreements.

It also ensures that current Medicare provider contracting rules, especially those that protect beneficiaries or consumers from financial liability in the event of a plan failure, will also apply to PSOs.

Since Medicare qualified PSOs do not enter the commercial market as a health plan in order to contract with Medicare, S. 146 provides Federal certification for the first four years, after which transition to State licensure is carried out.

In addition, this bill requires that the Secretary contract with states during that four year period to provide local monitoring of ongoing PSO performance, as well as beneficiary access to services. At the end of the four year period, State licensure would be required as long as State standards are sufficiently similar to the Federal standards, and the solvency standards are identical.

This approach over these initial four years, marries the benefits of national standards for a national program with the benefits of close monitoring at the State level by State agencies, an approach currently used by Medicare in certifying a variety of health care providers.

The issue of solvency. Last year's Balanced Budget Act mandated that the Secretary develop new solvency standards that are more appropriate to this PSO, provider-sponsored, environment.

Similarly, S. 146 recognizes that PSOs are different. They are not insurance companies, nor should they pretend to be insurance companies. PSOs are the caregivers themselves.

Thus, it is not necessary, because they are care-givers—physicians, nurses, and facilities—for them to go out and contract out or pay claims for health care services that they have to go out and essentially buy—as insurance companies have to do. Very different. This bill establishes these new solvency standards to protect Medicare beneficiaries against the risk of PSO insolvency.

The test of fiscal soundness is based on net worth and reserve requirements drawn from current Medicare law and the current National Association of Insurance Commissioners' (NAIC) "Model

HMO Act." Adjustments are made to reflect the operational characteristics of PSOs. For example, in measuring net worth, it ensures that health delivery assets held by the PSOs, such as the hospital building, are recognized just as they are in NAIC's Model HMO Act. Thus, fiscal soundness is assured.

Another issue on which the Rockefeller/Frist bill differs from the 1995 Balanced Budget Act is that it gives the Secretary authority to enter partial risk contracts, either with PSO's or HMO's.

The Balanced Budget Act required that PSO's take full risk with respect to Medicare benefits. While both bills would require that PSO's provide the full Medicare-defined benefit package, S. 146 adds a partial risk payment method, that is, payment for all services based on a mix of capitation and cost. This is actually very important if we want to have coordinated care go to our rural communities.

Now, why is PSO legislation necessary? First, current Medicare statute does not allow managed care plans to serve only Medicare patients. Instead, currently it requires these types of plans to participate also in the commercial market.

The Balanced Budget Act established the premise, that PSO's should be allowed to offer Medicare-only plans. Therefore, the rule that I mentioned earlier, the so-called 50–50 rule, is inappropriate under our bill for Medicare-only type plans.

Second, plans today are required to go through the State licensure process. Yet, the overwhelming majority of State licensure processes do not recognize the fact that PSO's differ from most insurers. Rather, States today expect them to look and act like insurers. But they are not, they are caregivers.

Senator ROCKEFELLER and I, in closing, did not introduce this legislation to eclipse the current Medicare risk contractors. Rather, the Provider Sponsored Organization Act compliments existing HMO options in the Medicare program and expands the choices available to seniors and individuals with disabilities.

This bill is narrow. It is focused. It really does not take on the broader issues of structural reform that must be addressed in Medicare. I would like to see much more choice than this bill, but this is the place to start.

Mr. President, Qualified Provider-Sponsored Organizations will challenge all health care organizations participating in Medicare to meet the goal of an integrated, coordinated health care system where quality, and not just cost, is put forward, where relationships of care-givers and their patients is preserved, and where physicians, nurses and hospitals come to the table. PSO's will challenge the entire system and the result will be higher quality.●

SENATOR SAM NUNN SUPPORTS THE B–2

● Mr. INOUYE. Mr. President, there have been many supportive comments on the remarks I presented last week on the need to acquire nine additional B–2 global precision strike aircraft. There is one response, in particular, which I wish to share with my colleagues.

Former Senator Sam Nunn of Georgia served the Senate for many years. Through dedicated work and thoughtful analysis, Senator Nunn came to be regarded as a national authority on defense issues. I now ask that a letter in support of additional B–2 procurement, which Senator Nunn sent to Congressman DUNCAN HUNTER, chairman of the House Committee on National Security, Subcommittee on Military Procurement, be printed in today's RECORD. I believe that all Senators will benefit from a close and thoughtful reading of former Senator Nunn's letter.

The letter follows:

KING & SPALDING
Washington, DC, March 10, 1997.

Hon. DUNCAN HUNTER,
Chairman, Subcommittee on Military Procurement,
Committee on National Security,
U.S. House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: Thank you for asking me to provide testimony for your March 12, 1997, hearing on bomber force structure. As you know, I have been a strong supporter of the B–2 bomber program since its inception as the Advanced Technology Bomber in the early 1980's. I continue to believe that 21 B–2 bombers will not constitute an adequate force level to deal with many likely future contingencies and crises, and that no other military systems in existence or on the drawing boards can adequately substitute for the capabilities the B–2 offers. Therefore, I strongly endorse the Subcommittee's reconsideration of the future bomber force structure to include the issue of resuming production of the B–2 bomber. I believe the Subcommittee needs to carefully consider the following points in its deliberations.

*For the foreseeable future, two major hot spots will remain in the Middle East and on the Korean peninsula. Yet these set-piece scenarios should not be the only scenarios against which the adequacy of our forces (and our military strategy) are tested.

*Potential enemies have learned several valuable lessons from Iraq's experience during Operation Desert Storm don't give the U.S. time to deploy forces and their support to the theater, do focus on disrupting U.S. air operations, do target strategic objectives that allies will be reluctant to counterattack (Seoul, Saudi oil field, etc.) and plan to seize them rapidly, before U.S. power can be brought to bear.

*Future conflicts are likely to confront the U.S. with a race against time and the advance of enemy forces toward important strategic objectives (think how different it might have been if Saddam's troops had not stopped after taking Kuwait.)

*U.S. contingency planning, including the BUR analyses and the JCS "Nimble Dancer" wargames (and the widely criticized 1995 DOD Heavy Bomber Study), assumes the U.S. will enjoy two weeks of actionable warning prior to an enemy attack—valuable time during which our military plans to deploy forces from CONUS and Europe, and more important, to start the sealift bridge from CONUS to the theater.

*This sealift link is crucial to U.S. performance in 1990, the U.S. needed six months in which to build up forces levels and to establish the sealift pipeline to support those forces during high-intensity conflict. Yet, the adequacy of logistics support has never been adequately modeled in JCS wargames.

*In 1994, Iraq suddenly mobilized troops and sent them to the border with Kuwait. The U.S. response capability raises serious questions. U.S. planning assumes two carriers in the Persian Gulf, yet there were none, U.S. planning assumes deployment of many hundreds of tactical aircraft to the theater in the first week, yet only about one hundred arrived, U.S. planning assumes prepositioned equipment aboard ships berthed at Diego Garcia in the Indian Ocean are important assets, yet these ships did not arrive until after the crisis was ended, U.S. planning assumes many precision munitions, yet supplies in the theater were low.

*If an important class of future contingencies will be those in which U.S. forces are trying to prevent an enemy surprise attack from seizing high-value targets, then U.S. forces will have to place a premium either on combat-ready forces stationed within the theater or on forces that can reach the theater and conduct effective operations in a timely fashion.

*We cannot count on having stationed forces in the right place at the right time, all the time. This suggests the importance of long-range assets, to provide the flexibility to respond rapidly from CONUS to trouble spots around the globe. The B–2 can reach any point on the globe from just three bases—Guam, Diego Garcia, and the U.S.

*Once in the theater, U.S. assets must be both survivable and highly effective against an invading enemy force. The B–2 bomber has a combination of range, payload, and stealth that is unmatched by any other system. And, precision munitions are continuing to enhance the value of all tactical aircraft, including the B–2 bomber.

*The value of stealth for conducting operations in a high-threat environment has been clear ever since the air operations against Iraq began in early 1991. The F–117A Stealth Fighter conducted countless missions over Baghdad without any loses and are widely cited for the success of the air war. Yet the F–117A has many operational limitations—it is a medium altitude attack platform capable of effective operations only at night in clear weather.

*The B–2 is an all-altitude, all-weather platform that is more stealthy than the F–117A and that carries many more individually-targetable weapons. The B–2's advanced capabilities go well beyond those of the F–117A or any other non-stealthy bomber.

*A number of recent analytic studies have shown that against many plausible invading forces, 20 or 21 B–2 bombers are simply not enough force to stop enemy invaders short of their important strategic objectives.

*The cost of additional B–2's is high relative to non-stealthy, short-range tactical aircraft. But so is the cost of failing to stop a determined enemy short of his strategic objectives. The inherent flexibility and capability of the B–2 bomber will be most important in those cases where we are surprised, where an enemy doesn't do what we had expected, and/or where we did not plan to have to fight.

I commend these points to the attention of your Subcommittee, and would urge you to undertake a searching review of the assumptions and assertions that underlie present U.S. military contingency plans. I thank you for inviting me to submit these thoughts for the Subcommittee's consideration and for your Subcommittee's careful attention to these important questions for national security.

Sincerely,

SAM NUNN.●

REMEMBERING TURKEY'S GENOCIDE OF THE ARMENIANS

● Mr. D'AMATO. Mr. President, America has always been a haven for victims of oppression and it is fitting that Members of this body rise every year to mark April 24—the day that commemorates Turkey's genocide of the Armenians. In the first instance in the 20th century when a state declared war on a minority group, an estimated 1.5 million people were killed. We rise today to show our solidarity with the victims and our condemnation of the slaughterers.

Many Armenian survivors came to the United States, where they found sanctuary. They have prospered and their vibrant community as a whole has become an integral part of American life and the democratic process. But while realizing and contributing to the American dream, they always remembered their Armenian origins, and never forgot their national sorrow. As Nobel Peace Prize winner Elie Wiesel has written, the Armenian people are rooted firmly "in their collective and immutable memory where death itself is vanquished, because the memory of death is received as a symbol, an instant of eternity."

Their sharing of the Armenian historical experience with non-Armenians has served as a stark reminder for us all of the universality of human evil and the strength of the human spirit, even at the darkest moments. The resilience of the survivors and Armenians the world over have inspired in other peoples feelings of shared sorrow and admiration. We mourn with them, and simultaneously take pride in their ability to overcome a great historical injustice, the consciousness of which never disappears.

Unhappily for them, Armenians have been called upon to be our teachers. From their terrible suffering we have learned that states may not make war upon minority groups, and the international community will neither tolerate nor forget such transgressions. From their ability to transcend the saddest moments of their history, we take heart and recommit ourselves to remembrance, celebration, and vigilance.●

TRIBUTE TO JOE STERNE OF THE BALTIMORE SUN

● Ms. MIKULSKI. Mr. President, this month, Joseph R.L. Sterne will be retiring as editorial page editor of the Baltimore Sun—a job he has held for more than 44 years.

I have known Joe for more than 20 of those years. As editor, he has been one of the best. I cannot remember a time when his name was not at the top of the paper's masthead. I read his editorials and he has read my press releases. I think I liked his better. His editorials were him—they were fair, professional, insightful, instructive, tough and thorough.

I've learned a lot from them. So did Baltimore and so did Maryland—whether it was an observation or suggestion regarding foreign policy or firm recommendation on how to improve Baltimore's housing policy or Federal tax issues.

Joe started his career in 1953 covering the police beat. But he didn't stay there long. He quickly moved on to report on some of the most important moments in American history—from the civil rights movement to the Vietnam war to working in Africa and Germany covering international affairs. That was his true love. But he never forgot that a great hometown paper begins with a great hometown.

His kudos and criticisms spurred all of us to do our best. But then, he asked no less of us than he asked of himself. He is one of the best. I will miss Joe Sterne. Baltimore will miss Joe Sterne. I wish him our best.●

"PEACE! WHERE ART THOU?"

● Mr. INOUYE. Mr. President, I request that the statement entitled "Peace! Where Art Thou?" written by my constituent, Ruben Ortiz-Paez, be printed in the CONGRESSIONAL RECORD. I encourage my colleagues to read this thoughtful essay.

The statement follows:

"PEACE! WHERE ART THOU?"

(By Ruben Ortiz Paez)

At a meeting to discuss World Peace, its Chairman closed the meeting with the following remarks: "After considerable effort, we are still groping like the Blind to come up with a significant dialogue which would contribute to the cause of Peace." After slight applause, he offered to field questions.

A blind man raised his hand and he was recognized. He stood up and this is what he had to say: "Mr. Chairman and Members: I really don't have a question, but if you will bear with me, I do have a few words to say. "The Chairman approved and he continued: "I don't think that it s fair to suggest that we haven't come up with solutions; the best minds in the world are devoted to finding Peace, and so far, they have come up with Zilch!

"Peace has always been desired, but there are leaders among nations who seem to derive Satanic pleasure in obstructing or derailing Peace initiatives! How then in Heaven's name, could Peace be expected to flourish? Here's a splendid suggestion: A sure way, is for us to embrace and spread The charity of Love! For Peace is Love's Godchild, and it will flourish wherever Love and compassion dwell in the Hearts of Men!

"I know that it's difficult to understand; and some would dare to say that it's just a pipe-dream! But not so, if my logic is considered with an open mind; reinforced with the Undeniable Truth, that Love is more contagious than all of the deadly viruses, so far identified by medical science and research!

"Here then, Mr. Chairman, I humbly offer the following, which I hope you may be able to consider as an acceptable contribution to the cause of Peace. It will probably be dismissed as an illusion by the skeptics, due to it's spiritual connotation, but I ask you sir, what other choice do we have?

"It takes just one person who's a 'carrier' to start an epidemic! So what are we waiting for? Let's be the 'carriers' to start an epidemic of Love! It isn t all that difficult, all that it takes is for us to shed our shyness; our fear that our affection could be misunderstood! It will be well worth it, and surely the Prince of Peace, will bless us for it, since his exhortation "Love your neighbor as yourself" means not only the one next door, but all with whom we share the Earth!

"Dear Members: If I can visualize all these things despite my blindness, just try to imagine, the great and wonderful things that you will be able to accomplish with God's gift of sight and optimism, in a world firmly determined to live in Peace, in the fast-approaching New Millennium!

"Thank you for allowing me to express my pent-up emotions and my layman's assessment of such a pressing and complex subject. May God bless you!"

The blind man received a standing ovation and the applause was deafening!●

THE SMALL BUSINESS ADMINISTRATION

● Mr. BUMPERS. Mr. President, On February 3, of this year, Carolyn Stradley testified before the Small Business Committee regarding the problems she had starting a paving company. It was one of the most interesting and compelling statements I have heard since I came to the Senate, and I have heard thousands.

Mr. President, without further elaboration, I ask that Mrs. Stradley's statement be printed in the RECORD for all to see and appreciate.

The statement follows:

TESTIMONY OF CAROLYN A. STRADLEY

Good morning. Thank you for your time today.

My name is Carolyn Stradley, I am the founder and owner of C&S Paving, Inc. in Marietta, Georgia.

I was born in the Appalachian Mountains at home in a two-room shack, without electricity or water. I had never seen indoor plumbing until I went to school.

My mother died when I was only 11 years old and my father, an alcoholic, walked away. For two years I survived in the mountains, then at 13 years old, I moved to Atlanta, sometimes sleeping in the back of cars and bathing at the bus station. When I entered high school, I did so without front teeth. Working at night, going to school in

the day time. I married at 15 years old, was kicked out of school at 16 for being pregnant, became a mother at 17, caring for a totally disabled husband at 21 and became a widow at age 26.

I started C&S Paving, Inc. out of necessity, not by choice, from the back of a pickup truck, shoveling asphalt into potholes. But I quickly found out that in 1979 very few people would take a single, 32-year-old woman in the asphalt paving business seriously.

When I tried to purchase equipment and trucks in 1979, the sales people just laughed at me. So, I asked my brother, who was unemployed and only had an 8th grade education to work with me for 25 percent of this new company. It was necessary for us to work 14–16 hours a day, so I asked my brother's wife if she would care for the children and answer the telephone—for another 25 percent of the company.

When the company was first started, I went to the Small Business Administration and asked for an 8–A package, but was told I did not qualify, but I persisted and finally was able to obtain a package after many years of trying. After its costly completion, and several months of waiting C&S Paving was again denied entrance into the program.

However, I did not give up and tried several years later and once again was told that I was not and had not ever been disadvantaged. I saw other people—some third generation company and college graduates—qualify and permitted to negotiate jobs that I was not allowed to bid on. I felt very angry and betrayed. Sadly, it seems to me that the 8(a) Program does not include white females whose circumstances would otherwise qualify them as being disadvantaged. In my case that was totally unfair and an abrogation of Congress' intent for the program.

In 1986, I realized that I could no longer work with my brother because of a total different set of values in business and life. I told him if he would just get my name off the personal guarantees, he could have everything. He could not and demanded $500,000 for his and his wife's shares. My options, as I saw them: murder, suicide, or find a way to buy him out.

I went to several banks before I found one that believed a woman could run an asphalt paving company, however, they would only make the loan if the SBA would guarantee it.

Business was great for the first 6 years into a 10-year loan. However, several of our job sites were hit by two tornadoes and one flood and the most rain that was ever recorded in Georgia.

The small bank that I had been dealing with was purchased in 1993 by a large multistate group. The loan was then "called" at a time when I could not work because of weather—the fact that I had never missed a payment for six years meant absolutely nothing to the bank.

I then requested a meeting with the Small Business Administration. I met with Fred Stone, District Director for the State of Georgia, Ray Gibeau, Chief, Portfolio Management and Janis Burda, Loan Liquidation Specialist. It was at this meeting that I realized that these three people were completely different than anyone I had ever dealt with before at the SBA. They were very professional, understood small business and were willing to go the extra mile.

It was with their help and guidance that C & S Paving was able to restructure the remaining balance of the loan. As a result of SBA's recognition that C & S Paving was a company worth saving, we have grown, prospered and are currently planning to build a new building this year which will enable us to hire about 10 more people this year.

Without SBA's help, I would have lost everything that I had worked my whole life for and over 30 period would have lost their jobs. Therefore, I am living proof that the SBA works for this Nation by helping small business create jobs and economic independence for its citizens. My survival has provided encouragement to many other people, especially women who wish to start their own companies.

From its humble beginning, by the reinvestment of profits back into the Company, C & S Paving was awarded the largest single contract ever let to a female-owned company through open-competitive bids. Other notable projects we have constructed are the running tracks inside the Olympic Stadium and the Georgia Dome.

Additionally, we were honored by President Bush in 1989 at the White House as Second Runner Up for the National Small Business Person of the Year as well as the Small Business Person of the Year Award for 1996 by The Small Business Council of America.

I share all of this with you, hopefully to help you understand the passion I feel towards the Small Business Administration. It is not perfect by any means, but to millions of women of this country, who by no fault of their own, do not have a father, husband, the education or community standing to ask for help—SBA's Women Business Ownership Program is their only glimmer of light and hope.

Today, you can be the vehicle that helps those that seek to help themselves by recognizing the true value that the Small Business Administration has and the difference it has made in so many lives and the tremendous contributions that small business makes to this country's economy and to the world.

This Agency's programs are not a hand out, but truly a hand up. Please allow us to hope.

Hope sees the invisible; feels the intangible and hope achieves the impossible.•

TAKE OUR DAUGHTERS TO WORK DAY

• Ms. SNOWE. Mr. President, I rise today on Take Our Daughters to Work Day, to encourage young women and girls across America to set their sights high, and to reach for their dreams.

Since my childhood, the composition of the work force has changed dramatically, and job opportunities have significantly increased for young women and girls. Today, women comprise 46 percent of the paid labor force, and according to Bureau of Labor and Statistics, by the year 2000, roughly half of new entrants into the labor force will be women.

Despite these gains, studies show that during adolescence, girls often receive less attention in school and suffer from lower expectations than do boys. They also set their future sights lower than their male counterparts. This is reflected in a New York Times/CBS poll, which found that over one third of girls surveyed believed that there are more advantages to being a man than a women. For many girls, low self-esteem can lead them to lose confidence in their abilities, which may prevent them from achieving their fullest potential later in life.

In this day and age, we cannot accept reduced opportunities for girls and women from either an equity standpoint or an economic one. Today, women are equally responsible for the well-being of their families. So it is not just their own futures that are at stake, but the future of their children and their children's children. It is our responsibility to set high standards and provide them with the experiences and role models that will inspire them to be extraordinary leaders of the future.

We need to do far more to challenge our daughters' notions of women's work. While most school-age girls plan to work, they do not plan for careers that could sustain themselves and their families. In 1992, 53.8 million women were employed and only 3.5 million were employed in nontraditional occupations. Further, women working in nontraditional jobs earn 20 to 30 percent more than women in traditionally female jobs. Women remain significantly under-represented in careers requiring math and science skills—women comprise only 11 percent of today's technical work force, and only 17 percent of all doctors are women. Nearly 75 percent of tomorrow's jobs will require the use of computers, but girls comprise less than one-third of students enrolled in computer courses. And a study by the Glass Ceiling Commission found that women occupy only 5 percent of senior-level management of the top Fortune 1000 industrial and 500 service companies. As leaders and as parents, we must do our best to ensure that American girls are prepared to step into those high-wage jobs and management positions that command higher salaries in the work force.

I was honored to endorse again, this year, Take Our Daughters to Work Day, organized by the Maine's Women's Development Institute, in my home State. Girls in Maine and across the Nation will have another opportunity to see first-hand that they have a range of life options. In the past, Take Our Daughters to Work Day has encouraged young girls to reach out and use their creative spirit and I am confident that this special day will prove again to be a rich and rewarding experience for all parents and daughters alike.

Today, millions of parents across the Nation will take their daughters to work. In 1996, in Maine alone, 10,000 Maine girls and 5,000 Maine businesses participated in Take Our Daughters To Work Day. These parents perform a great service by exposing their daughters to new and exciting experiences. They are not only expanding their horizons and helping them to explore opportunities, but teaching them important lessons about goal-setting as well.

Take Our Daughters to Work Day has encouraged a new generation of young girls to envision a world where no goal is impossible.•

TAKE OUR DAUGHTERS TO WORK DAY

• Mrs. MURRAY. Mr. President, thanks to Take Our Daughters to Work Day, young girls from all over the country will be given the opportunity to accompany adults to the workplace. Today, young girls will be given the opportunity to shadow an adult mentor—and gain experience in a work environment. What better way to enable girls to explore their future and gain exposure to a wide range of career options?

The focus of this one day event is to bring awareness to the development and education of young girls. Research suggests that young girls often receive less attention in school and suffer from lower expectations than boys. This difference can affect their self-esteem and self-confidence, particularly during the difficult years of adolescence. Lower expectations and self esteem can later prevent them from achieving their maximum potential. This in turn can hinder their own personal and professional development. Therefore, adolescence is a crucial time period for adults to intervene in the lives of young girls. Adults need to take the time to show girls that they can set high goals and pursue their dreams. Today's events will offer inspiration and encouragement to millions of young girls—and show them that adults are committed to helping them—so they can fully expand their horizons and pursue their dreams.

In 1995, women comprised 46 percent of the paid labor force. The composition of the work force has changed significantly, and opportunities have continued to increase for women. Despite these gains, women's wages, on average, still remain below men's. We cannot accept the gap that still exists between men and women. Even though the gap is narrowing—we must continue to work on this issue. Women still experience barriers to non-traditional career roles. A study by the Glass Ceiling Commission found that women occupy only 5 percent of senior level management of the top Fortune 1000 industrial and 500 service companies. Women only comprise 11 percent of the technical workforce. This needs to change. America's future depends on it. Women need to be encouraged to seize opportunities and explore non-traditional careers. This includes developing skills that will prepare them for high wage jobs and management positions that offer higher salaries in the workforce.

Women are increasingly becoming responsible for the financial well-being of their families. We need to ensure that young girls are prepared for the workforce—and have the opportunity to live up to their full potential. We can only do this if we have a community effort. Today, more than ever—young girls need role models and mentors—so that they can achieve success.•

RECOGNITION OF SERVICE BY MAYOR SMIGLEY

• Mr. SMITH OF OREGON. Mr. President, I would like to take this time to recognize 34 years of public service by Mayor Bill Smigley of Veneta, OR. I personally would like to thank Mayor Smigley for his commitment and hard work and wish him all the best in his retirement.

Mayor Smigley served as city councilman for 18 years and mayor for 16 years, but has also shown a life-long dedication to improving not only his community but the State of Oregon. His service as chairman of Lane Council of Governments and his 16-year contribution to the League of Oregon Cities is a testament of his commitment to making Oregon's future brighter for all of us.

I speak on behalf of many Oregonians across the State who look to Mayor Smigley's public service as a source of inspiration and hope that even in his retirement he will continue to work on future endeavors that will benefit our great State.•

THE 82d ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mrs. FEINSTEIN. Mr. President, today, April 24, marks the 82d anniversary of the beginning of the Armenian Genocide. I rise today to acknowledge and commemorate this terrible chapter in history, to help ensure that it will never be forgotten.

Eighty-two years ago today, one of the darkest chapters in human history began. On April 24, 1915, Ottoman authorities began arresting Armenian political and religious leaders throughout Anatolia. Over the ensuing months and years, some 1.5 million Armenians were killed at the hands of the Ottoman authorities, and hundreds of thousands more were exiled from their homes.

On this 82nd anniversary of the Armenian Genocide, let us renew our commitment never to forget the horror and barbarism of this event.

We must remember, we must speak out, and we must teach the next generation about the systematic persecution and murder of millions of Armenians by the Ottoman government. I know that I am joined by every one of my colleagues, by the Armenian-American community, and by people across the United States in commemorating the Genocide and paying tribute to the victims of this crime against humanity.

As Americans, we are blessed with freedom and security, but that blessing brings with it an important responsibility. We must never allow oppression and persecution to pass without notice or condemnation.

By commemorating the Armenian Genocide, we renew our commitment always to fight for human dignity and freedom, and we send out a message that the world can never allow genocide to be perpetrated again.

Even as we remember the tragedy and honor the dead, we also honor the living. Out of the ashes of their history, Armenians all across the world have clung to their identity and have prospered in new communities. My state of California is fortunate to be home to a community of Armenian-Americans a half-a-million strong. They are a strong and vibrant community whose members participate in every aspect of civic life, and California is the richer for their presence.

The strength and perseverance of the Armenian people is a triumph of the human spirit, which refuses to cede victory to evil. The best retort to the perpetrators of oppression and destruction is rebirth, renewal, and rebuilding. Armenians throughout the world have done just that, and today they do it in their homeland as well. A free and independent Armenia stands today as a living monument to the resilience of a people. I am proud that the United States, through our friendship and assistance, is contributing to the rebuilding and renewal of Armenia.

Let us never forget the victims of the Armenian Genocide; let their deaths not be in vain. We must remember their tragedy to ensure that such crimes can never be repeated. And as we remember Armenia's dark past, we can take some consolation in the knowledge that its future is bright with possibility.•

THE 82ND ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mr. SARBANES. Mr. President, I rise to join my colleagues in commemorating the 82nd anniversary of the Armenian genocide, the first such tragedy to occur in the twentieth century. Today, as we renew our commitment to the rights and freedoms of all humanity, we also celebrate the reemergence of an independent Armenia.

It is a tribute to the indomitable spirit of the Armenian people that, after centuries of oppression, they have persevered and re-established a free and independent nation—a nation as determined as its citizens. In its short existence, the Republic of Armenia has survived the earthquake of 1988, the dissolution of the Soviet Union and a blockade by its neighbors. Truly, the spirit of the nation reflects the spirit of its people.

Despite these hardships, the young republic has made economic progress.

As the first of the former Soviet republics to record economic growth, Armenia has kept inflation under control and made great advances toward privatization. Now, it is incumbent upon nations like the United States to continue our policy of engagement and assistance, as Armenia continues its efforts toward establishing a democratic society.

The United States has also benefitted from a strong Armenian presence. With their firm resolve and dedication to democracy, the more than one million Armenian Americans have made significant contributions to the cultural, political and economic life of this nation. At the same time, by preserving their Armenian faith and traditions, they have achieved a balance that enriches our diverse and vital American culture.

The tragic events of 1915–1923 contain in them some important moral lessons. We now realize that a quick and decisive response by the international community might have prevented the persecution and death of more than 1.5 million Armenians. Unfortunately, the world's indifference to their plight not only sealed the futures of the Armenian victims, but paved the way for similar tragedies in the years that followed.

It is imperative, Mr. President, that no nation or individual ever forgets the injustices suffered by the Armenians in 1915. Only by striving for human rights and civil liberties for all people can the promises of human dignity be achieved. In that regard, the highest honor we can accord the heroic Armenian people is to continue the struggle for freedom wherever we are, be it America, Armenia, or anywhere else across the globe. By pursuing that mission, hopefully we can prevent such tragedies from happening again.•

ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mrs. BOXER. Mr. President, I rise today to observe the 82d anniversary of the Armenian genocide. It is only by keeping the memory of this dark time alive will we keep it from occurring again.

On April 24, 1915, over 200 Armenian religious, political and intellectual leaders were arrested in Constantinople—now Istanbul—and killed, marking the beginning of an organized campaign to eliminate the Armenian presence from the Ottoman Empire.

Thousands of Armenians were subjected to torture, deportation, slavery and ultimately, murder. In the 8 years between 1915 and 1923, roughly 1.5 million men, women and children lost their lives to this genocide. More than 500,000 were removed from their homeland, many of whom perished in forced marches ending in the deserts of Syria.

The Armenians were able to gain their freedom for a short time in 1918, but in 1920, when the former Soviet Union joined the Turkish attack, they were again overpowered. It was only in 1991, following the breakup of the Soviet Union, that the new Republic of Armenia was born. Today, we pay tribute to the courage and strength of a people who would not know defeat.

Yet, independence has not meant an end to their struggle. There are still those who question the reality of the Armenian slaughter. There are those who have failed to recognize its very existence. But we must not allow the horror of the Armenian genocide to be either diminished or denied.

The pages of history are replete with stories of the atrocities man commits against his fellow man. And upon those pages, this massacre is one of the most vile stains. We must learn the lessons of the past well, and never tire of the fight to end prejudice and discrimination. We must show the world the Armenian people did not suffer in vain.•

COMMEMORATION OF THE ARMENIAN VICTIMS

• Mr. FEINGOLD. Mr. President, I rise today to commemorate the 82d anniversary of the Armenian genocide. Today we remember the Armenians who died during the years 1915 to 1923 at the hands of the Ottoman Empire.

From 1915 to 1923, the Ottoman Turkish government systematically murdered 1.5 million Armenians and drove half a million into exile. On the eve of the first World War, 2.5 million Armenians lived in the Ottoman Empire. Following the brutal Ottoman Turkish campaign, less than 100,000 remained. These Armenians were victims of a policy explicitly intended to isolate, exile, and even extinguish the Armenian population.

As we look at world events today—in Bosnia, in Rwanda, and elsewhere—we see a repetition of what happened in Armenia. In commemorating this day, we remember those who died, and condemn violations of human rights at anytime in the past or the future. We all know that, in the context of world politics, human rights violations are far too common and the response to those violations is often tame at best.

As we meet here today, it is likely that somewhere, a political prisoner is being beaten by the police or armed forces, or by some paramilitary group whose members might include police officers or soldiers. It is likely that a union organizer is being detained or harassed by authorities, that a woman is being raped by government thugs, that a newspaper is being shut down, or that a prisoner has "disappeared." It is equally likely that the people responsible for such outrages will never be held accountable.

As Americans we must keep a vigilant watch on our world so that the horrors that occurred in Armenia 82 years ago might not be repeated again, and again, and again. History means nothing if we do not learn from it. On a day like today, we must remember what we stand for, and ensure that the U.S. continues to be a beacon of strength and hope for the heroes that stand up and survive such atrocities. These deaths should not be in vain.

I am proud to commemorate this important occasion today.•

COMMEMORATION OF THE ARMENIAN GENOCIDE

• Mr. REED. Mr. President, I rise to commemorate the 82d anniversary of the Armenian Genocide.

In the 1930's, someone questioned Adolph Hitler about the possible consequences of his plan for the systematic elimination of the Jews. Hitler seemed to believe that there would be none. He allegedly responded, "Who, after all, today remembers the Armenians?"

One of my constituents, Noyemzar Alexanian, remembers. On a spring morning in 1915, when she was 6 years old, the Kurdish calvary surrounded her village. They rounded up all the men and teen-aged boys, tied their hands with rope, took them to a distant field and stabbed them to death. Her father escaped to a neighboring village but was soon discovered. Noyemzar says she remembers her father being led away while her mother cried for help. This little 6-year-old girl then "watched the white shirt of her father as he was led up a mountainside by the soldiers. The white shirt became a dot, and then it was gone." Noyemzar's father was stabbed to death. Over the next few years, as she was shuttled from the houses of strangers to orphanages, Noyemzar lost her two sisters. But still she did not lose hope. After several years, she and the remaining members of her family escaped to Cuba. She later settled in Rhode Island with her husband, Krikor, another refugee from Armenia. Noyemzar Alenanian is now 88 years old, and every day she remembers.

Mr. President, old and young around the world today remember the Armenian holocaust. We remember that on this date in 1915, the Ottoman Empire and the successor Turkish nationalist regime began a brutal policy of deportation and murder. Over the next 8 years 1.5 million Armenians would be massacred at the hands of the Turks and another 500,000 would have their property confiscated and be driven from their homeland. Engrossed in its own problems at the time, the world did little as the population was devastated.

Despite having already undergone such terrible persecution and hardship, the people of the Armenian Republic

still suffer today. The peace talks recently concluded in Moscow regrettably made no progress toward the resolution of the Karabagh conflict. Turkey continues to blockade humanitarian aid to Armenia.

However, the Armenian people look hopefully to the future. Their quest for peace and democracy continues to inspire people around the world. Armenians who have emigrated to other countries, especially those in my home State of Rhode Island, bring their traditions with them. They enrich the culture and contribute much to the society of their new homelands.

The continuing reports of the recent atrocities committed in Bosnia reaffirm the importance of our commitment to always remember the Armenian genocide. As long as hate and intolerance are a part of our world, we must be vigilant. We must stand as witnesses to protect people from persecution for the simple reason that they are different.

I hope to visit Armenia in the near future. I wish to see the treasures of that land firsthand and pay tribute to the indomitable spirit of the people of Armenia. Until that time, I want to ensure the Armenian community that we remember. Menk panav chenk mornar.●

UNANIMOUS CONSENT AGREEMENT—S. 562

Mr. ROBERTS. Mr. President, I ask unanimous consent that at 11:30 a.m., on Friday, April 25, the Banking Committee be discharged from further consideration of S. 562 and the Senate then immediately begin consideration under the following limitation: 1 hour for debate on the bill equally divided in the usual form, there will be no amendments in order to the bill, and following the conclusion or yielding back of time the bill will be read for a third time with no intervening action or debate.

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

RELATING TO JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1225, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1225) to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states.

Mr. ROBERTS. Mr. President, I ask unanimous consent the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 1225) was deemed read three times and passed.

ORDERS FOR FRIDAY, APRIL 25, 1997

Mr. ROBERTS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, April 25.

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

Mr. ROBERTS. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and there be then a period of morning business until the hour of 11:30 a.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator SMITH of Oregon for 30 minutes, Senator DORGAN 30 minutes, Senator DASCHLE or his designee for 30 minutes, Senator THOMAS or his designee for 60 minutes; from 10:30 to 11:30, Senator GRAMS for 10 minutes, Senator KENNEDY for 20 minutes, Senator CONRAD for 10 minutes, Senator WELLSTONE for 10 minutes.

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

PROGRAM

Mr. ROBERTS. Mr. President, for the information of all Senators, tomorrow from 9:30 in the morning until 11:30, the Senate will be in a period of morning business to accommodate a number of Senators wishing to speak.

At 11:30, the Senate will begin consideration of S. 562, the reverse mortgage bill. Under the agreement, there will be 1 hour for debate on that bill. However it is our understanding that no Senator will request a rollcall on passage, therefore, with that in mind, Senators should not expect rollcall votes to occur during Friday's session of the Senate.

On Monday, April 28, the Senate will debate the motion to proceed to S. 543, regarding protections to volunteers. A cloture motion will be filed tomorrow on this issue, which will call for a cloture vote on the motion to proceed to S. 543 on Tuesday of next week. Therefore, the next rollcall vote will occur on Tuesday, April 29, at 2:15 p.m. If cloture is invoked on Tuesday, it is expected that the Senate will proceed to the bill on Tuesday. Therefore, additional votes can be expected to occur on Tuesday on amendments to the volunteer protection bill.

The Senate could also be asked to turn to any other Legislative or Executive Calendar items that may be cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROBERTS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:48 p.m., adjourned until Friday, April 25, 1997, at 9:30 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION, BY REQUEST, OF BILLS TO REAUTHORIZE THE PROGRAMS OF THE ECONOMIC DEVELOPMENT ADMINISTRATION AND APPALACHIAN REGIONAL COMMISSION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. SHUSTER. Mr. Speaker, today I am introducing, by request and with the bipartisan leadership of the Transportation and Infrastructure Committee—Ranking Member OBERSTAR, Public Buildings and Economic Development Subcommittee Chairman KIM, and Ranking Subcommittee Member TRAFICANT—two administration bills to reauthorize the programs of the Economic Development Administration and the Appalachian Regional Commission.

The administration bills form a good starting point for reauthorization and reform of the programs of both of these agencies. In particular, I am pleased to note that the legislation incorporates many of the reforms in the reauthorization bill (H.R. 2145) reported by the Transportation and Infrastructure Committee last Congress.

Both of these agencies enjoy broad, bipartisan support in the House. The Transportation and Infrastructure Committee is prepared to move in an expeditious manner to consider the relevant issues and report reauthorization legislation. It is my expectation that the authorization will be combined into one bill, as has been the custom of the committee.

COMMEMORATING THE 82D ANNIVERSARY OF THE ARMENIAN GENOCIDE

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mrs. KELLY. Mr. Speaker, I am pleased to stand and join with my colleagues in commemorating the 82d anniversary of the Armenian genocide. I would like to thank the other members of the Congressional Caucus on Armenian Issues, and particularly the cochairmen Mr. PORTER and Mr. PALLONE, for their tireless efforts in organizing this fitting tribute.

On April 24, 1915, 82 years ago today, the nightmare in Armenia began. Hundreds of Armenian religious, political, and educational leaders were arrested, exiled, or murdered. These events marked the beginning of the systematic persecution of the Armenian people by the Ottoman Empire, and also launched the first genocide of the 20th century. Over the next 8 years, 1.5 million Armenians were put to death and 500,000 more were exiled from their homes. These atrocities are among the most cruel and inhumane acts that have ever been recorded.

As we reflect today on the horrors that were initiated 82 years ago, I cannot help but be disturbed by those who wish to deny that these deeds occurred. Despite the overwhelming evidence to the contrary—eyewitness accounts, official archives, photographic evidence, diplomatic reports, and testimony of survivors—they reject the claim that genocide, or any other crime for that matter, was perpetrated against Armenians. Well, history tells a different story.

Let me read a quote from Henry Morgenthau, Sr., U.S. Ambassador to the Ottoman Empire at the time: "When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact * * *"

The world knows the truth about this tragic episode in human affairs. We will not allow those who wish to rewrite history to absolve themselves from responsibility for their actions. This evening's event here in the House of Representatives is testament to that fact. I would like to once again thank the organizers of this event and I would like to once again reaffirm my sincere thanks for being given the opportunity to participate in this solemn remembrance.

HONORING RAOUL WALLENBERG AND LILLIAN HOFFMAN

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, today at 10:30 a.m. at the U.S. Holocaust Memorial Museum, the U.S. Postal Service will unveil its new postage stamp honoring Raoul Wallenberg. This is a fitting tribute to a great man whose contributions to humanity deserve to live on in perpetuity.

Raoul Wallenberg was a young Swedish diplomat who risked his own life in rescuing many tens of thousands of Hungarian Jews during World War II. Through great acts of personal bravery, Wallenberg saved many would-be victims of the Nazi executioners by providing Swedish protective passports to thousands of Jews he had never met. He pulled some out of death trains and others from the ranks of death marches.

In one notable incident, Wallenberg, a slightly built 32-year-old, boldly threatened a Nazi general preparing to bomb a Jewish ghetto to the ground. Through this intervention alone, some 70,000 Jews were saved from death. He demonstrated how a strong character and unwavering determination could force even the brutal Nazi occupiers to spare some of the Hungarian Jews who had been marked for death.

Upon the cessation of hostilities in World War II, Wallenberg's trials did not likewise end. Because of his implacable hostility toward oppression, Soviet military officials persecuted him and ultimately arrested him early in 1945. After his incarceration, he disappeared into the Soviet gulag prison camp, never to emerge again. Though the Soviets claimed in 1957 that he had died in 1947 of a heart attack, reliable eyewitnesses report sightings of Wallenberg long after that year. To this day, no one outside of Russia knows what truly happened to Wallenberg, whether he is still alive, or when he may have died.

On this occasion, it is wholly appropriate to also honor the hard work and dedication of the late Lillian Hoffman of Denver, CO, who worked tirelessly to ensure that Wallenberg's contributions to the world lived on. She purchased and donated the bronze bust of Raoul Wallenberg that currently resides in the Capitol rotunda. During her own distinguished lifetime, Lillian spent more than two decades working to further the cause of human rights wherever they were in danger or violated. Continuing the legacy of Raoul Wallenberg, Lillian chaired the Colorado Committee of Concern for Soviet Jewry. In this capacity, Lillian personally assisted numerous people who were persecuted in Russia and the Soviet Union because of their religious beliefs. She helped them obtain exit visas so they could begin new lives in freedom in Israel and the United States. It was one of the most enjoyable experiences of my career knowing and working closely with Lillian for so many years. Her passing, like that of Wallenberg's, was mourned by all freedom and tolerance loving peoples around the world.

So, today it is fitting to salute both Raoul Wallenberg for his humanitarian deeds and Lillian Hoffman for her generosity in donating the bust of Raoul Wallenberg to the people of the United States. In Raoul and Lillian's honor, we must never forget what transpired during that dark chapter in human history, nor the shining acts of personal bravery that guided us through it. By so doing, both Raoul and Lillian will live on through all of us.

HONORING 50 YEARS OF GOVERNMENT SERVICE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. HOYER. Mr. Speaker, I rise to pay tribute today honoring Mr. Robert E. Waxman, a career civilian with the Department of the Navy.

Mr. Speaker, for the past 50 years, Bob Waxman has and continues to serve this Nation and the U.S. Navy with his unceasing commitment to excellence. Today, I pause to pay tribute to this great public servant because it is apparent that Bob Waxman has no intentions of slowing down any time in the near future. There are many measures to examine the life and labors of an individual. Some would point to aptitude, attitude, or the extent of achievements accumulated. However, although these are typically the norm, it has been said: "The measure of a man is not intellect or natural talent, but what does it take to make a man quit."

Mr. Speaker, the individual I salute today is an extraordinary leader within our civil service. Robert E. Waxman grew up in Baltimore, MD, and began his illustrious career in the Army Air Corps during World War II, serving 24 months as a flight officer. Bob Waxman first arrived in southern Maryland in June 1949 as a student aid working at the Naval Air Test Center at Patuxent River, MD. After graduating from the University of Maryland in June 1950, he worked briefly for the Army Signal Depot in Baltimore as a laboratory electronics mechanic until accepting a full-time position on January 15, 1951, at the Patuxent River Naval Air Station as an electronic engineer.

By the mid-1950's, Bob Waxman was the chief engineer for the Navy air navigation electronics project, a group of 57 personnel sharing a hangar at the Naval Air Test Center, Patuxent River, MD. In 1958, he was named as the technical director of this organization which grew to become a separate command at Webster Field, St. Inigoes, MD. Incredibly, he still is the head of the same basic organization which has undergone many reorganizations and grown tremendously under his leadership. Today, his entity encompasses 500,000 square feet of administrative and laboratory space on station and another 400,000 square feet off station laboratory. At its peak in 1991 prior to the base realignment and closure process, this organization had 2,861 personnel, of which 353 were civil servants, and the other 2,508 were support contractors. With less than 350 civil servants, his organization grew to a peak business base in fiscal year 1994 of $566 million total obligational authority.

Mr. Speaker, I want to bring this story to the attention of others because it is a tremendous success story of how entrepreneurial civil service managers can be in our Government. Long before U.S. managers in Government and the private sector began embracing the principles of Dr. Edwards Deming and other management gurus, Bob Waxman was applying those techniques touted today as necessary for success. Empowering employees is a technique that has been a hallmark of Bob Waxman's since he became a manager in the early 1950's driving decisionmaking to the lowest levels of the organization.

His management philosophy drove his organization to grow its business base rapidly even during times when he could not hire additional civil servants, never exceeding 400 civil servants. Through partnering with the private sector, Mr. Waxman continued to accept new customers and new business while delivering excellent service to a very broad and diverse customer base. As a result of the innovative business approaches he has applied, this small Navy organization supports, they today have a long and diverse list of customers including many non-DoD agencies. Bob Waxman's management philosophy should serve as the model for any agency today when the Government is being asked to do more with less.

Mr. Speaker, Bob Waxman is one of the Government's most productive managers. Even today, long after he could have retired and made much more money in the private sector, he continues to lead by example. It would be difficult to find a manager either in the Government or in the private sector who has more energy, enthusiasm, and drive than Bob Waxman. He has always sought to achieve and operate similar to a private business. He has maintained throughout his career that the only way to survive in a competitive environment is to ensure that the maximum amount of each dollar is spent delivering a product to the customer and not for covering unnecessary overhead expenses. As a result, his leadership has been identified as having one of the lowest overhead rates of any Government organization, averaging 20 to 22 percent.

Maintaining a lean operation has enabled Bob Waxman and the St. Inigoes organization to successfully compete against the private sector in the late 1970's for the communications equipment installation for all AEGIS class ships. since the successful bid, they have delivered over 50 ships without ever missing a cost or time schedule and without any claims against them. This outstanding record has resulted in 14 consecutive AEGIS Excellence Awards.

It is obvious that Mr. Waxman is an exemplary manager, but his personal style is also very distinguished. His philosophy has always been the open-door policy and his honest, forthright approach has been instrumental in implementing a practical equal employment opportunity environment with favorable working conditions for all. He has been a mentor to his employees and two of his former department heads became technical directors of other Navy Systems Command field activities.

Mr. Speaker, I am honored to bring to the attention of my colleagues the outstanding achievements and dedication of one of our Government's finest. I have had the distinct honor to have worked with Bob Waxman very closely and have enjoyed his quick wit, tireless dedication, and persistence. I am a great admirer of the tremendous work he continues to do for our great Nation and I ask my colleagues to join me in saluting this truly outstanding public servant today as he celebrates 50 years of service to the U.S. Government.

His career has served as an inspiration to countless managers, both in the public and private sectors. His dedication and love for his job is a rarity today. Not many people can claim to have remained as the manager of an entity for as many years as he has, persevering through several challenging attempts to close it. Through all this, Bob Waxman has accrued over 4,400 hours of sick leave and lives by the motto: "putting in a full, day's work for a full day's pay". Bob Waxman's leadership and loyalty remind us all that it truly is greater to give than receive. His ongoing service and sacrifice continues to renew and remind us all that the human spirit was never intended to be selfish but selfless.

THE JAMES JOYCE RAMBLE: A FINE ARTS RUNNING EVENT

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MOAKLEY. Mr. Speaker, I rise today in support of the James Joyce Ramble, a 10K race held in Dedham, MA, that artfully accomplishes a dual celebration of both Irish literary heritage and athletic prowess. The 14th Ramble will take place on April 27, 1997. This year's event will commemorate the 75th publication anniversary of "Ulysses," James Joyce's vivid portrayal of a typical day in Dublin through the experiences of the main character, Leopold Bloom.

The race not only extols the memory of James Joyce but also donates all proceeds from sponsors and entry fees a very worthy cause, the Dana Farber Cancer Institute in Boston. The funds raised through the Ramble will support the cancer institute's life-saving research, which will bring us one step closer to a cure for this disease that has tragically affected so many of our families and friends.

Not merely a charity event, the race also calls attention to human rights violations in various nations. In the past, each James Joyce Ramble has focused on one particular author whose writings have entreated for respect for human rights. Writers recognized previously include Vaclav Havel of Czechoslovakia, Aung San Suu Kyi of Burma, and Xu Wenli of China. This year the race has been dedicated to Wei Jingsheng, a jailed Chinese author who has used the pen as a powerful tool to decry social and political injustice in his homeland.

Again, I applaud the organizers of the James Joyce Ramble—and wish all the participants a competitive race.

TRIBUTE TO WILLIAM GAITER

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. QUINN. Mr. Speaker, I rise today in memory of Mr. William L. Gaiter.

Mr. Gaiter dedicated his life to building a better community for all. His love for the community was exhibited through his tireless commitment to social change and civil rights for everyone.

As an activist and civil rights leader, Mr. Gaiter was instrumental in improving the quality of education in Buffalo by persuading the Board of Education to establish the BUILD Academy—Build Unity, Independence, Liberty, and Dignity—of which he served as president.

Along with Claudia Sims and Judson Price, Mr. Gaiter organized the first Juneteenth Festival, a western New York celebration of African-American culture.

In addition, Mr. Gaiter served as Erie County's equal employment opportunity coordinator in 1983, and headed the Student Timeout for Academic Renewal [STAR] counseling program.

Mr. Gaiter touched the lives of people both in the United States and beyond. In 1984, as organizer of the Western New York Council for African Relief, Mr. Gaiter selected an African community, and developed cultural, economic, and social ties between it and western New York. He led a delegation to the Senegalese village of Malika to deliver money raised by 47,000 Buffalo schoolchildren. Mr. Gaiter's exceptional life of community service and activism serves as an example of what we should all be about—love, love of God, and love for our fellow man.

Mr. Speaker, today I would like to join with the city of Buffalo, and indeed, our entire western New York community, to honor Mr. Gaiter, a true community leader. I would also like to convey to the Gaiter family my deepest sympathies, and ask my colleagues in the House of Representatives to join with me in a moment of silence.

REMEMBERING CHAD W. SCHUBERT OF DOVER, OH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. NEY. Mr. Speaker, I rise today to remember Chad W. Schubert of Dover, OH, and to extend my sympathies to his parents, Joe and Kathy Schubert, and to his brother Joey and sister Heather.

Chad passed away following an industrial accident on March 28, 1997. He had volunteered his time and energy on my congressional campaigns, and was always willing to do anything he could to help. Chad showed his dedication to the community and to others through his graduating from Traynor's Police Academy in Canton, OH. I appreciate Chad's integrity and his dedication to his country and to his community.

My thoughts and sympathies are with the Schubert family for the loss of their son and brother. I am certain that these feelings are shared by everyone who was fortunate to have known Chad. I ask my colleagues to join me in remembering Chad Schubert and his family in their prayers. He will be missed.

MICHAEL DEGRANDIS REMEMBERED

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. KUCINICH. Mr. Speaker, I rise to note the passing of Michael DeGrandis. Mr. DeGrandis was the dean of community politics in Cleveland. He possessed a keen understanding of the political process and enabled many Clevelanders to make a difference.

Mike was born in Cleveland, where he grew in the Buckeye-Woodland neighborhood. He graduated from Cathedral Latin High School and served in the Army as a radio controller in Okinawa during the Vietnam war.

Mike worked for the city of Cleveland as a housing inspector. He then worked as an examiner with the Ohio auditor's office. Following that, he became an assistant business manager for the Cleveland public schools. Later, he served as an assistant chief deputy for the civil branch of the Cuyahoga County Sheriff's Department.

Mike's political involvement was far reaching. He attended every Democratic convention since 1964, and was a delegate to last summer's convention in Chicago. He was also cohost of a weekly radio show, "Democratic Point of View," on WERE AM/1300. Mike was so involved in the democratic process that he thought to make sure that the last four digits of his home phone number spelled. VOTE.

Mike understood what people cared about. He understood their hopes. He cared that their dreams were foremost in the minds of elected officials.

Mike left his wife, Irene, daughters Nicole and Michelle, and son Michael. We will all miss him greatly.

TRIBUTE TO CRIME VICTIMS

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. McNULTY. Mr. Speaker, this month, the Nation observed Crime Victims' Rights Week, which was geared to the theme: "Let Victims' Rights Ring Across America." This annual observance is a recognition of the victims of criminal acts and an expression of confidence that we will soon have in place all the necessary legislation to ensure justice and assistance for the victims and their families.

It is gratifying to see that this important issue is being addressed by the House and Senate.

As a strong supporter of victims' rights, I take this occasion, Mr. Speaker, to recognize the work of the Capital District Coalition for Crime Victims. This organization represents the collaborative efforts of crime victims, victim advocates, victim service providers, agencies of the justice system, and my constituents in the 21st Congressional District of New York—as well as surrounding districts.

The coalition's mission is to increase public awareness about the effects of crime and victimization, and work for fair and equal treatment of those who have been victims of crime—and their families.

The coalition had its beginnings in 1988. It is chaired by Ms. Patricia Gioia, of Waterford, NY, who is also capital district chapter leader of POMC [Parents of Murdered Children], and other survivors of homicide victims. The coalition cochair is Ms. Flo Derry, coordinator of the Albany County CCVAP [Comprehensive Crime Victim Assistance Program].

This year, a major coalition event was the dedication of the Brick Memorial Walk Way at the New York State Crime Victims Memorial, located directly behind the legislative office building near the Swan and State Streets intersection in Albany. Each brick of the walk way is inscribed with the name of a crime victim.

This walk way will serve as a monument to the victims of criminal acts of violence. It also sends an important message that we shall do all in our power to protect the rights of victims of crime.

HONORING JUANITA WHITE

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. DAVIS of Virginia. Mr. Speaker I rise today to honor a leading citizen of the 11th Congressional District, Ms. Juanita White, an active civic leader from the Springdale Civic Association at Bailey's Crossroads, VA. Juanita was born here in Washington, DC, and grew up in Fairfax County, where she has graciously spent her time and energy giving back to our community. Juanita has contributed over 26 years to our county school and park systems, and has always devoted herself to working with the area's children. She served as president of Missions Ministry and also of the Social Seniors of Bailey's Community Center.

Mrs. White has also been active in childrens' activities at the community center, and is a constant volunteer and leader for the Springdale Civic Association. This active and committed spirit is only one of the endearing qualities which will be celebrated by all her family and friends on April 26, 1997, as they gather to applaud her amazing contributions to the northern Virginia area.

I am sure her friends and family as well as all of the citizens in the 11th District of Virginia join me in wishing her well as we all share in the joy of this momentous occasion. I look forward to wishing you many happy birthdays in the future.

TRIBUTE TO COLDWATER CHAPTER OF THE ORDER OF THE EASTERN STAR

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. SMITH of Michigan. Mr. Speaker, today, I would like to recognize the Coldwater Chapter of the Order of the Eastern Star [OES]. This group has contributed to the Branch County community in countless ways. Just one of their notable contributions was hosting a welcome home reception for returning gulf war soldiers, including parades around the county and providing food for all of the veterans and their families. OES also provides generous scholarships to area students every year. These are just a few of the shining examples of the organization's dedication to the betterment of south central Michigan. While it's difficult to surmise all of OES's contributions because of their belief in anonymous charity, the group's existence has been an enormous benefit to the community.

Today, I would like to take the opportunity to do more than just recognize the Coldwater Chapter of the OES for their philanthropic works, I would also like to congratulate them as they celebrate 130 years of existence. It was in 1867 that the first members of the Order of the Eastern Star, Coldwater Chapter No. 1, began official meetings in Branch County. It is now the oldest surviving chapter in the United States, having maintained its traditions since its birth.

The Coldwater Chapter of OES has given years of priceless assistance to Branch County, MI, and it deserves our laurels. Their dedication and selflessness is truly an honor to the State of Michigan and the national Order of the Eastern Star.

SALUTE TO DR. FRANK AND ELSIE WITMAN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. GALLEGLY. Mr. Speaker, I would like to recognize Dr. Frank Witman and his wife Elsie for 28 years of outstanding service to the United Methodist Church and the community of Simi Valley, CA.

Dr. Witman, along with his wife Elsie, have dedicated their lives to helping others. Ordained in the United Methodist Church in 1957, Dr. Witman served in several congregations before being appointed pastor in charge of the Simi Valley United Methodist Church in 1969.

His involvement in the community extends beyond the doors of the church. He has been actively involved in Rotary International for over 35 years and has achieved a perfect attendance record. Dr. Witman has been a police chaplain with the Simi Valley Police Department since 1978 and a volunteer chaplain at the Simi Valley Hospital and Care Services since 1983.

In 1992, Dr. Witman began to coteach a weeklong church administration and finance class for students and pastors at the Claremont School of Theology. In addition to his practical experience, Dr. Witman was uniquely qualified to teach the course because of his role as both a member of the board of directors for the United Methodist Federal Credit Union and eventually as its chairman.

After his wife of 44 years, Dr. Witman's second love is his local church. He has served his church and community tirelessly for 28 years. He is an inspiration to all and I wish he and his wife much happiness in their retirement.

A TRIBUTE TO EDWARD CLARK

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. SHUSTER. Mr. Speaker, there are three things that are of the utmost importance to Pennsylvanians: family, religion, and work. I would like to note that amateur wrestling could be added to that category. Wrestling's zealous and fervent following in Pennsylvania is unlike any place else. I rise today, Mr. Speaker, to pay tribute to a Pennsylvanian who has dedicated his life to the sport and its participants, Ed Clark.

He was recently described by a colleague as being, "A beloved and highly competent teacher, coach, and athletic director." Ed Clark graduated from Bedford High School in 1944, having been a district champion wrestler. He entered the U.S. Army and after World War II, matriculated to the Pennsylvania State University where he was a member of the wrestling team. Upon his graduation from Penn State, he returned to his boyhood home of Bedford to begin his teaching career at Bedford High School in 1950. Once there, he rejoined his old high school wrestling team, this time serving in the capacity as an assistant coach to his old mentor, Hall of Fame coach Francis "Whitney" Koontz.

By 1957, Ed Clark had become the head wrestling coach at Bedford, and served in that capacity until 1974. The teams he led as head coach compiled an incredible record of 129 wins versus only 24 losses and 1 tie. His success has contributed greatly to the legacy of Pennsylvania wrestling. Ed Clark coached Bedford to five undefeated seasons, another five seasons with only one loss, won 10 district titles, and never coached a losing team despite having consistently competed against the top teams in the region.

He also found the time to coach football and golf at Bedford High School during his career, while he retired in 1992 after teaching physical education and health for 42 years. Ed Clark's accolades as coach were duly noted when he was recently elected to the Pennsylvania Wrestling Hall of Fame. I would also like to recognize the fact that at a time when the special needs of the physically handicapped were largely ignored, Ed Clark made it a point to make the necessary adjustments and accommodations to meet the needs of those special individuals in his physical education classes.

Mr. Speaker, I will close by thanking Ed Clark for his outstanding service to the area in which he and I live. He is a true community role model and his efforts as a teacher, coach, and mentor are a testament to his firm commitment to those whose lives he has touched.

ARMENIAN GENOCIDE

SPEECH OF

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 23, 1997

Mr. HOYER. Mr. Speaker, today we solemnly commemorate the massacre of Armenians in Turkey during and after the First World War. We mourn the dead, and express our condolences to their living descendants. During that terrible tragedy, an estimated 1.5 million people were killed in what historians call the first of this century's state-ordered genocides against a minority group.

While the tragic events leading to the deaths of millions of Armenians occurred at the beginning of this century, their impact on the psyche of the Armenian people, and indeed the entire world are still apparent. The effects of such atrocities on a people are never overcome. Many can still testify to the deportations and massacres of family members and friends. Others can read or view pictures of the abominations, and all Armenians, young and old, live with the knowledge that their people's existence was seriously jeopardized during the last years of the Ottoman Empire.

Mr. Speaker, the world must be reminded over and over of the brutal crimes perpetrated against the Armenian people. Unfortunately, history's lessons are not easily learned and put into practice. This century has been witness to unparalleled human suffering and unmatched human cruelty. The Armenian genocide was the first attempt to wipe out an entire people. The failure to recognize it gave Hitler confidence. Since then, we have seen the killing fields of Pol Pot, the horrors of ethnic cleansing in Bosnia, and the tragedy of Rwanda.

Mr. Speaker, it is imperative that each of us work to ensure that our generation and future generations never again have to bear witness to such inhuman behavior and feel the pain and suffering of an entire people. The crime of genocide must never again be allowed to mar the history of humankind, and today we stand with our Armenian brothers and sisters, not only to remember and share in their grief for those who died, but to celebrate those who are living.

VETERANS' BENEFITS CLAIMS ADJUDICATION

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, as in past Congresses, it is crucial that veterans' issues remain at the top of the agenda. Serving on the House Veterans' Affairs Committee, I am constantly impressed by the bipartisanship that is demonstrated. This is due to the leadership of Chairman BOB STUMP and Democratic Ranking Member LANE EVANS.

One of the most pressing problems that both sides of the aisle are concentrating on is that of adjudication of veterans' benefits claims. The publication of a General Accounting Office report in September 1995, closely followed by issuance of the Veterans' Claims Adjudication Commission's report in December 1996, has brought this issue to the fore. Some of the findings are truly troubling.

As of May 1995, over 450,000 veterans were waiting on decisions for their appeals for pension or compensation claims. A veteran waits, on average, 2½ years for a decision to finally be rendered.

This is unconscionable. When times are tight, an almost 3-year wait for benefits can seem like a lifetime. Especially considering that these benefits were earned through dedicated and oftentimes hazardous service to our country.

What is being done? The House Veterans' Affairs Committee has prepared a schedule to

adequately address this issue in the 105th Congress. A full committee hearing to review the Adjudication Commission's report is planned for later this spring. This will allow members of the committee to further investigate the work of the Commission and to debate possible means of rectifying some of the concerns that have been raised.

An active oversight plan is also on the agenda. In fact, the committee has a list of 58 programs, agencies, and issues to follow up on. The goal of oversight is to bring any deficiencies to light so that solutions can be found to ensure that veterans' benefits are not unjustly interrupted, and to guarantee the integrity of all Veterans' Administration Programs.

The House in the 105th Congress has already taken action on H.R. 1090, a bill to allow for revision of veterans' benefits decisions based on clear and unmistakable error. This represents a minor step to ameliorating the negative impact of the backlog in adjudication claims. Cases involving clear and unmistakable errors are few, but any eliminations from the docket will be welcome. I would urge the Members of the Senate to act expeditiously on this matter.

The adjudication process for veterans' benefits claims has been recognized as an area of immediate importance. With continued bipartisan cooperation, the House Veterans' Affairs Committee will be better able to affect a decrease in the backlog of pending cases. I pledge to continue working toward this end.

TRIBUTE TO BURT P. FLICKINGER, JR.

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. QUINN. Mr. Speaker, I rise today in memory of Mr. Burt P. Flickinger, Jr.

Throughout his life, Burt Flickinger tirelessly dedicated himself to the enhancement of our western New York community. A prominent Buffalo businessman who began in his family's business as a floor sweeper, Mr. Flickinger led his company to national prominence as a premiere food supplier and distributor. Insistent on earning his way to the helm of his family's company, Mr. Flickinger served as a division manager, secretary, senior vice president, and eventually president.

Burt Flickinger was No. 1 in his campus school class, attended the Nichols School and Philips Exeter Academy, and graduated magna cum laude from Harvard University.

A true leader in recycling, Mr. Flickinger and his wife demonstrated a strong commitment to protecting our environment. To that end, Mr. Flickinger helped craft New York State's return-deposit recycling bill, created the Beverage Industry Collection and Sorting company [BICS] for food manufacturers and retailers, and initiated a recycling of plastics program for area supermarkets.

In 1988, Mr. Flickinger spearheaded the effort to bring the 1993 World University Games to Buffalo. By accomplishing this difficult task in his typical volunteer basis, Buffalo became the first American city to host this prestigious international event. Built for the games, Buffalo now boasts an impressive 18,000-seat football stadium at the University of Buffalo, a new aquatic center in the town of Tonawanda, and a world-class swimming pool and athletic complex at the Erie Community College City Campus, appropriately named the Burt Flickinger Athletic Center.

Mr. Flickinger also proved instrumental in the preservation and subsequent growth of the Buffalo Philharmonic Orchestra. Heading many major gifts campaigns and serving for several years as chairman of the finance and executive committees, Burt Flickinger almost single-handedly kept the orchestra from bankruptcy.

Another important project to Mr. Flickinger was the Roycroft Revitalization Corp. This nonprofit organization played a vital role in the restoration of one of western New York's most enduring landmarks, the historic Roycroft Inn.

In addition, Burt Flickinger was a four-time president of the Food Industry Council, a founding member of the Food Bank of Western New York, director, treasurer, and a founding member of the Erie Recycling Center, chairman of the New York State Food Merchants Association, and permanent chairman of the Boys Town of Italy of Western New York. In recognition of that extraordinary level of community service, Mr. Flickinger was recognized as the Buffalo News' Outstanding Citizen in 1989, and the 1989 recipient of the University at Buffalo's Distinguished Citizen Award.

On April 21, 1997, the Buffalo community lost one of its greatest men. A man whose dedicated and charitable community service, hard work, commitment to Buffalo's development, personal strength, unparalleled integrity, and vibrant love of life serve as an inspiration to us all.

During a tribute in 1988, John Walsh III, CEO of Walsh Duffield Cos. put it best—"We see Mr. Flickinger as a humble, quiet, forceful, and thoroughly professional servant of his community, and we are educated by his kindness and compelling example of leadership."

Mr. Speaker, today I would like to join with the city of Buffalo, and indeed, our entire western New York community, to honor Mr. Burt P. Flickinger, Jr., who is survived by his wife, Mary Ewing Ryan Flickinger; his brother, Peter; his children, Burt III, Molly Flickinger Ford, and Catherine "Bambi" Flickinger Schweitzer; his stepchildren, Peter Ryan, David Ryan, and Molly Ewert; and his seven grandchildren and two stepgrandchildren for his dedicated service to our western New York community. To that end, I would like to convey to the Flickinger family my deepest sympathies, and ask my colleagues in the House of Representatives to join with me in a moment of silence.

We will all miss Mr. Flickinger very much.

HONORING PHIL NIEKRO ON THE OCCASION OF HIS INDUCTION TO THE BASEBALL HALL OF FAME

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. NEY. Mr. Speaker, I rise today to pay tribute to an outstanding citizen who was raised in Ohio's 18th District. The 14th winningest pitcher in the history of major-league baseball, Phil Niekro, has been voted into the Baseball Hall of Fame after a distinguished and celebrated career.

Phil Niekro has shown uncommon dedication and excellence in baseball. He learned the sport, and his famous knuckleball, from his father Phil, Sr., a sandlot player. Phil began his career in 1959 with the Milwaukee Braves' minor league team and moved to the majors full time in 1967.

Phil Niekro's career is one of achievement. On October 8, 1985, Niekro recorded his 300th victory by pitching an 8–0 four hitter for the New York Yankees against Toronto. At 46, he became the oldest major-league pitcher ever to hurl a shut-out. His accomplishments have been recognized through his selection to four All-Star teams during his tenure with the Atlanta Braves. For his fielding talents, Niekro has won five Golden Glove awards.

The Atlanta Braves Career Pitching Records is marked by Phil Niekro's accomplishments. He holds the record for most years at 20 years, most games and most games started at 740 games and 635 games respectively. He also has the most strikeouts of any other Atlanta Braves pitcher and the most wins of any right-handed pitcher.

I am honored to represent the birthplace and hometown of Phil Niekro. His considerable talent and stellar career are sources of pride for the residents of Ohio's 18th district. I share their pride, and ask my colleagues to join me in congratulating Phil Niekro on his induction to the Baseball Hall of Fame and to wish him continued success.

ON THE 50TH WEDDING ANNIVERSARY OF MILDRED AND JOHN BURDA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the enduring commitment of two people to each other on the 50th wedding anniversary of Mildred and John Burda of Ohio.

Both Mildred and John are native Ohioans; Mildred hailed from Canton, and John from Cleveland. They married in 1947, raised a family, built careers and nurtured their love for each other in the Cleveland area. John studied nights and mornings to earn his associate's degree at John Carroll University and Mildred typed his papers. John worked his way up the ladder at Cleveland Electric Illuminating, starting as a lineman and rising to supervising foreman after 40 years. Mildred

raised their four children. When the youngest graduated high school, Mildred went to work as a bookkeeper at the Church of the Sacred Heart, where she worked for 15 years.

As recalled by their children, Mildred and John were always supportive of and affectionate with each other. When their young friends would come over for Mildred's chop suey, they would be treated to Mildred and John, holding hands as if they had just returned from their first date.

In retirement, both are active. They are engaged with their community as members of their parish council. They travel widely visiting children around the country. They also cross-country ski in Cleveland's snowy winters, cycle and walk.

Their enduring love for each other is a gift to all who know them. After 50 years, both Mildred and John are sure that if they had their lives to do over again, they would spend them with each other.

ARMENIAN GENOCIDE

SPEECH OF

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 23, 1997

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to the millions of victims of the Armenian Genocide of 1915–23.

Although to some it may seem a long time ago, those 8 years witnessed one of this century's darkest chapters. Before planning the final solution in Nazi Germany, Adolf Hitler said, "who remembers the Armenians?" Today's remembrance is testimony to their bravery and our memories.

On April 24, 1915, Turkish officials rounded up and murdered over 200 Armenian intellectuals in Constantinople. During the following 8 years, Armenians living under Ottoman rule suffered the losses of their homes, their property, and eventually, their lives.

By 1923, only one in three Armenians had survived the genocide; 1.5 million Armenians were killed and half a million were deported. But to this day, the Turkish Government denies the genocide took place on Turkish soil.

Mr. Speaker, I would like to add my name to the list of those who will not forget the genocide and will work to make sure that future generations remember as well.

Thank you, Mr. Speaker.

CONGRESS MUST DEBATE THE FED'S DECISION TO CUT BACK ON GROWTH

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. FRANK of Massachusetts. Mr. Speaker, I believe Congress is delinquent in paying too little attention to the most significant set of public policy decisions now being made in this country: namely the decision by Chairman Alan Greenspan and the rest of the Federal Open Market Committee to increase interest rates because they believe that this country has been growing too fast economically, and that we must therefore cut back on growth and job creation so as to avoid any possible increase in inflation. I should note that they maintain this even though by their own admission there is no sign of inflation currently, and even though many of them, including Chairman Greenspan, have been unduly pessimistic in the past about the impact of reduced unemployment on inflation.

Twenty-five of the twenty-six Democratic and Independent members of the Banking Committee have urged the chairman of the committee to convene a full committee hearing on the important issues raised by the Fed's decision. He has declined. I have now turned to my Republican colleagues to ask them to join in this request for a hearing. Under committee rules, if 4 of the 30 Republicans were to join us, we would have the requisite number to require that a hearing be held.

It seems to many of us essential that we convene public hearings in the Congress in which Mr. Greenspan and his colleagues can defend their decision, and in which representatives of business, organized labor, citizens groups, and others can voice their agreement or disagreement. The scope of the issues involved here was recently made very clear in a cogent article Lester Thurow, former dean of the MIT Sloan School of Management, and currently a professor of economics at the school. Because this is the single most important set of decisions now being made about the American economy, and therefore about such related issues as how we can reduce the budget deficit to zero in a socially responsible way, how we can absorb hundreds of thousands of welfare recipients into the economy, and how we can accommodate growing internationalization of our economy without increased inequity. I am inserting Professor Thurow's article here:

Alan Greenspan's move to higher interest rates in March was in and of itself unimportant—after all what can a one-quarter of 1 percent increase in interest rates do to an economy as big as that of the United States. The real issue isn't the increase but Greenspan's history. He believes in salami tactics. In 1994 and 1995 he raised interest rates 7 times in 12 months. Each increase was small, but in the end those 7 increases doubled interest rates.

Based upon his history, financial markets know Greenspan does not like big jumps in interest rates and a small rate increase is apt to signal that a sequence of small increases has begun and that in the end those small increases will end up being a big jump in rates. Given this belief, it is not surprising the stock market started to fall in the aftermath of Greenspan's announcement.

But the issues are far more important than the ups and downs of Wall Street. Greenspan has indirectly signaled he believes that the bottom two-thirds of the American work force should continue to get the small annual real wage reductions that they have gotten over the past quarter of a century—reductions that now amount to a 20 percent fall in real wages over the past 23 years. In the most recent year for which we have complete data, 1995, real wages once again fell for both fully employed male and female workers. Median family income rose slightly, but only because both men and women worked more hours per year.

In a market economy, wages rise for only one reason—demand has to be rising faster than supply. In the past 16 years, a 2.6 percent growth rate has led to falling wages. If the economy continues on that pace, no one should expect anything different to occur in the future. Nothing has happened to change demand; nothing has happened to change supply. Yet this is precisely what Greenspan is suggesting should happen with this recent hike in interest rates.

In his view the American economy must be limited to a 2 to 2½ percent rate of growth on the grounds that this is all the economy can achieve without rekindling inflation. In this environment, the pattern of falling wages for the bottom two thirds of the American work force has to continue. Americans cannot break out of this pattern without a different growth path.

The bottom part of the American work force also needs to be reskilled and re-educated, but these programs cannot work without faster growth. With today's growth rate, real wages are falling for males at all educational levels and for women at all educational levels except those with university degrees. With today's growth rates, there is no shortage of skilled workers. To increase the supply of skilled workers and do nothing about demand would simply reduce wages faster.

If inflation were visible, perhaps one could justify drafting the bottom two thirds of the American work force to be "Inflation fighters for the U.S. of A." It would not be fair (why should they suffer all of the costs of stopping inflation), but perhaps it might be necessary. But there is no sign of inflation in any of the indexes. Greenspan and the Fed can point to none—and they do not even try to do so. Greenspan has also testified to Congress that he believes the Boskin Commission is right and that today's price indexes include at least 1.1 percentage points of exaggeration. With this correction, the lack of inflation becomes even stronger.

Nor is there any data showing that higher wages are about to lead to higher prices. The preliminary data for 1996 show a small gain in average real wages—0.2 percent—but 1996's productivity gain was five times as big. There is no economic theory under which such small wage gains far below the rate of growth of productivity can be labeled inflationary. Yet Greenspan is saying with his interest rate hike that those 1996 wage increases are too large.

Only the modern Delphic Oracle, Greenspan and the Federal Reserve Board Open Market Committee, can see the inflation in our future. Only they can see why most Americans must prepare for a future of falling wages and diminishing expectations. Ordinary mortals who must rely on real world data cannot see what they see, but then we are only mortals—not gods.

To put it bluntly and simply, such decisions ought to be unacceptable in a democracy. Decisions to lower the real wages for a majority of American voters must be decided in a democratic context. It is popular to talk about maintaining the independence of central bankers from the influence of politics, but that only makes sense if the central bankers are making sensible decisions that can be supported with hard real world data. When they ask us to believe them simply because they are wiser than we are and can see things that we cannot see, they are going beyond the appropriate bounds of any government agency in a democracy.

HONORING 100 YEARS OF EXCELLENCE—JOHNSON SENIOR HIGH SCHOOL, ST. PAUL, MN

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. VENTO. Mr. Speaker, I rise today to celebrate the 100-year anniversary of my alma mater, Johnson Senior High School in St. Paul, MN along with the graduating class of 1997. I am proud to be an alumnus of Johnson High School, the "spirit of the East Side," as it's referred to in St. Paul. Johnson High School has been a respected institution of learning in St. Paul for the past century.

Over the years, the staff and teachers of Johnson High School have shared the gift of learning with countless thousands of students, hundreds of whom are immigrants and new Americans. Johnson High School has continued to generate pride and a sense of belonging in each new generation. The mission of Johnson High School is to be relentless in promoting education for the common good. Certainly, my interest in public service was encouraged and guided by the educators at Johnson High as well as the St. Paul community.

Johnson High School has had a close association with the community and maintains a thriving identity throughout the neighborhoods of St. Paul's East Side where many of Johnson's sons and daughters still reside, work, and participate. The success of current students at Johnson in both scholastic and athletic achievements continues to reflect a positive learning experience. This year's wrestling team was a runner-up in State competition and the Johnson team was the top academically of all State wrestling teams.

Johnson High School has had many distinguished graduates throughout the Nation and the world. Warren E. Burger, Chief Justice of the U.S. Supreme Court and Wendell Anderson, former U.S. Senator and former Governor of the State of Minnesota are both Johnson alumni. Countless other graduates have made unique contributions to the city of St. Paul, the State of Minnesota, and to the Nation as a whole.

Johnson High School has earned the right to be recognized for the contribution it has made. I am sure my colleagues will join me and thousands of Johnson alumni, in sharing the excitement of 100 years of history. May 17, 1997, Johnson High School Centennial Day, will be proclaimed and celebrated throughout St. Paul.

MEDICARE ANTI-FRAUD AMENDMENTS ACT OF 1997

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mrs. THURMAN. Mr. Speaker, today, I am pleased to join with the ranking member of the Health Subcommittee, Mr. STARK, and Messrs. SHAW and DAVIS in introducing the Medicare Anti-Fraud Amendments Act of 1997. We are offering this legislation to weed out unscrupulous providers in Medicare. This bill will not only protect beneficiaries and respectable providers, but also prevent the funneling of needed health care dollars into the hands of health care scam artists.

In the State of Florida, we have had tremendous success in fighting fraud in the Medicaid Program by requiring service providers such as Durable Medical Equipment suppliers, private transportation companies, non-physician-owned clinics, and home health agencies, to post a $50,000 surety bond in order to participate in Medicaid. The bonding requirement is no obstacle to legitimate providers, but presents a serious roadblock to Medicaid scam artists. Through the bond requirement, Florida has decreased the number of DME providers 62 percent, from 4,146 to 1,565 and home health agencies have decreased 41 percent from 738 to 441; these reductions have had no impact on patient care. In fact, the surety bond requirement helped Florida to identify 49 DME providers who were using post office box numbers to bilk the Medicaid Program.

The problems Florida has identified are not unique to Medicaid. Medicare can clearly benefit from Florida's experience. Our bill requires Medicare to institute the same bonding requirement, a $50,000 surety bond for DME providers, private transportation companies, clinics that furnish nonphysician services, and home health agencies. In addition, it requires providers to disclose all officers, directors, physicians, and principal partners owning 5 percent or more of the service.

Every Medicare dollar gained by fraudulent providers is a dollar lost for our senior citizens. We must end these scams, and surety bonds are an essential step in this fight.

INTRODUCTION OF EUROPEAN SECURITY ACT OF 1997, H.R. 1431

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. GILMAN. Mr. Speaker, I am pleased to introduce today the European Security Act of 1997, H.R. 1431.

The purpose of this bill is twofold. First, it is designed to carry forward the work we began 2 years ago in the Contract With America advancing two of our top national security priorities: NATO enlargement and ballistic missile defense.

Second, it is intended to show that, contrary to the conventional wisdom, both of these important objectives can be achieved without disrupting relations with Russia.

NATO enlargement is a project near and dear to my heart. This is the fourth bill I have introduced on the subject in as many years, and I am pleased to say that the three previous ones were all enacted into law. I hope that our record of congressional support bodes well for the bill we are introducing today.

I believe that the work we have done in Congress has brought the administration and NATO to where they are today on enlargement. The Atlantic Alliance will begin the first round of enlargement this July. The countries we focused on in last year's NATO enlargement legislation—Poland, Hungary, the Czech Republic, and Slovenia—are considered the front runners for selection in July.

The bill I am introducing today identifies two problems with the way NATO enlargement is proceeding.

First, we are concerned about the countries that may be left out of the first round of enlargement. We think it is critical that such countries not be left in any security vacuum. These countries must be reassured that they will not be forgotten; that the door to NATO will remain open to them.

Second, we worry that in the rush to mollify Russia, concessions may be made that could jeopardize European security and the integrity and effectiveness of NATO. We are concerned, for example, that new NATO members could be relegated to second-class status. We worry that concessions might be made that could make it impossible for NATO to defend these countries effectively. We must not allow NATO's decision-making structure to be compromised.

To reassure the countries that are not currently front runners for admission, this bill directs the President to designate additional countries to receive NATO enlargement assistance under the NATO Participation Act. Such designation would give them the same status under United States law as Poland, Hungary, the Czech Republic, and Slovenia. The bill gives the President 180 days in which to do this.

The bill goes on to express the sense of Congress that Romania, Estonia, Latvia, and Lithuania would make good NATO members and should be invited to join as soon as they satisfy all relevant criteria.

Regarding Russia, the bill spells out concessions that we would consider unacceptable. But then it goes on to recognize that, in principle, we should go about enlarging NATO in a manner sensitive to Russia's interests. Accordingly, we approve in concept such undertakings as the NATO-Russia Charter and adaptation of the Conventional Armed Forces in Europe [CFE] Treaty.

To make clear that the purpose of NATO enlargement is not to emasculate Russia—as many in Moscow appear to believe—this bill provides the President the legal authority he has requested to implement the so-called CFE Flank Agreement.

We do this because we know of no better way to demonstrate to Russia that our objective is not renewed military confrontation between our countries, but friendship. We genuinely believe that NATO enlargement will enhance the security of all countries in Europe, including Russia.

With regard to ballistic missile defense, we also try to demonstrate that our objectives can be achieved in a manner that enhances Russia's security as much as our own. To this end, the bill authorizes a program of ballistic missile defense cooperation with Russia to be carried out by the Department of Defense. This program is authorized to include United States-Russian cooperation regarding early warning of ballistic missile launches from such rogue states as Iran and North Korea, and cooperative research, development, testing, and

production of technology and systems for ballistic missile defense.

In addition, the bill includes provisions designed to protect the constitutional prerogative of Congress to approve arms control agreements with Russia bearing on ballistic missile defense.

I look forward to working with my colleagues and the administration toward the prompt enactment of this measure.

KILDEE HONORS JUDGE KENNETH SIEGEL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a longtime friend, and lifelong community leader, Judge Kenneth Siegel. On Saturday, April 26, 1997 the Greater Flint Branch of the American Civil Liberties Union will honor Judge Siegel as the "Baltus Civil Libertarian of the Year."

Kenneth Siegel has spent his entire life working on behalf of people who are the most vulnerable in our society. He has spoken out for children and young people, he has helped protect senior citizens, and he made sure that low-income people had equal access and representation in the judicial system.

Kenny Siegel has also consistently defended students rights to protest. When schools try to enforce policies despite student opposition, Kenny Siegel has upheld the student's first amendment rights. It is Ken's deep love and understanding of our country's Constitution that led him to defend the rights of those who are easily forgotten.

Mr. Speaker, Judge Siegel has always tried to ensure that justice was fair for all Americans. That is why every person who appeared before him was treated with dignity and respect. But I believe what always made Kenny such a special judge and person was the time he spent in the community, visiting the churches, meeting with people of all economic, ethnic, and racial backgrounds.

Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in honoring my dear friend Judge Kenneth M. Siegel. He has made my hometown of Flint, MI, a better place to live, and he has made me, a better person.

THE 1997 J.C. PENNEY GOLDEN RULE AWARD

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Ms. PRYCE. Mr. Speaker, today I rise to pay tribute to the outstanding philanthropic efforts of the 17 semifinalists for the 1997 J.C. Penney Golden Rule Award. I am proud to represent these people and organizations in Congress, for their commitment and devotion to the central Ohio community is truly exemplary.

The Golden Rule Award ceremony publicly honors local volunteer efforts, and is presented in more than 200 markets in 45 States. The 1997 semifinalists have proven themselves to be amply deserving of this recognition, having demonstrated continued, selfless sacrifice to the Columbus, OH, area. They serve as a model to us all.

America's generosity both at home and abroad in unsurpassed on this planet. Regrettably, however, the day-to-day volunteer efforts of so many Americans go regularly unnoticed. We take for granted their generous work with the poor, the elderly, the sick, and the neglected. But their unheralded and noble deeds are duly noted by those they help, often providing a bit of hope during times of great distress.

At a time when our Nation demands that government become smaller and spend less, the importance of volunteerism and community service grows profoundly. These semifinalists prove once again that the most important work done in our country is not done within the beltway, but within the shelters, pantries, and soup kitchens of our local communities. We must never lose sight of the fact that Americans' innate sense of sacrifice continues regardless of what may transpire in Washington.

I proudly salute the following people and organizations for their inspiring work, and join with my colleagues in congratulating them for this most deserving recognition.

Ms. Carla L. Bailey; Columbus Firefighters' Local Union No. 67; The Dublin Women's Club; Upper Arlington City School District, Habitat for Humanity; Hospice at Riverside and Grant—Grant Inpatient Volunteers; Lee Ann Igoe; Louverture Jones, Jr.; Al and Betty Justus—Central Ohio Radio Reading Service; Linda Stern Kass—Columbus Montessori Education Center; The Liebert Corp.; Sam Morris; Physicians Free Clinic; Darrell Wayne Scott; Kathleen Straub; Helene F. Thomas; Thompson, Hine & Flory LLP; and Claire L. Waters.

HONORING THE BEST OF RESTON AWARD WINNERS FOR 1997

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. DAVIS of Virginia. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to the individuals and businesses who are this years winners of the Best of Reston Awards. These awards are made annually by the Reston Chamber of Commerce and Reston Interfaith. The Best of Reston Community Service Award was created to recognize companies, organizations, and individuals who have made outstanding contributions to community service, and/or who have improved the lives of people in need in Reston, VA.

Blooms Flowershop for continuous and generous support to the community including sponsoring the Random Act of Kindness Day where thousands of roses were distributed throughout the community. Blooms also provides arrangements to the elderly and to nonprofit groups for events. Owners Karen Weinberg and Gail Dobberfuhl will receive the award on behalf of the business.

Lawrence Cohn owner of Lakeside Pharmacy, who for 25 years, has reached out to those in need. Typical of an old-fashioned pharmacy, Cohn provides a friendly ear, advice and encouragement to his customers. Rising above the call of duty, Cohn has administered eye drops to those unable to do so for themselves, delivered medicine, supplied groceries at the pharmacy, provided jobs for teenagers, and given prescriptions to those at the Embry Rucker Shelter.

Grant Hill of the Detroit Pistons basketball team. Hill is a role model to young Restonians on and off the court. He is involved in several projects benefiting others. These projects include the Medical Care for Children Partnership, the Grant Hill Basketball Tournament and the Grant Hill chocolate bars. The basketball tournament benefits children's hospitals nationally while the chocolate bars benefit the Technology 2000 program at South Lakes High School.

INOVA Health System is named for its diversity of programs involving the community including the mall walkers, Sneakers and Speakers program, community health screenings, partnership with Reston Interfaith, Life with Cancer program, and support of the Special Olympics. More than 200 INOVA employees have volunteered their time for programs including Christmas in April, Volunteerfest, Safe Kids coalition, food drives, Fairfax Fair, the International Children's Festival, the Reston Festival, and the Northern Virginia Fine Arts Festival sponsored by GRACE. INOVA's president is Knox Singleton.

Carolyn Lavallee a chemistry teacher at South Lakes, was chosen for her commitment to education and public service. Her involvement covers a range of activities from leading Girl Scouts, advising youth, and coordinating the Wetlands project in conjunction with Reston Association.

The Samway Family for their commitment to cancer research. The family created the Kathryn Fox Samway Outback Steakhouse Memorial Golf Tournament which, in the past 4 years, has raised close to $1 million donated to Fairfax Hospital, National Cancer Institute, and the Dana-Farber Cancer Institute.

Thomas Wilkins for being a man if all seasons having served as an active member of the NAACP, the President of the Reston Association (RA), active in Meals-on-Wheels, offering services as a tutor in public schools, served on the Stonegate Advisory Board, assisted children attend college and served as a founding board member for the Medical Care for Children Partnership. Tom also has served as a member of my staff when I was chairman of the County Board of Supervisors.

Constance L. Pettinger is awarded the Distinguished Community Service Award for 15 years at Reston Interfaith. Her work in helping the homeless, the hungry, and the needy has been an inspiration to all of us who know her.

Mr. Speaker, I know my colleagues join me in honoring the Best of Reston Award winners for all of their hard work in making Reston, VA, an outstanding place to live and work. Their daily heroics deserve recognition and gratitude from a grateful community.

THE FEDERAL REGULATORY BURDEN

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mrs. KELLY. Mr. Speaker, I rise this evening to discuss the burden that Federal regulations place on the American economy, especially our small businesses. While we are all familiar with this problem, and commend the steps taken during the 104th Congress to make improvements, we are a long way from providing our Nation's small business owners with the relief they need from overregulation.

We all know that the regulatory burden that the Federal Government places on the economy is huge. Exactly how huge is difficult to say. One of the most recent studies that we have available to us is a November, 1995 report to the U.S. Small Business Administration by Thomas Hopkins of the Rochester Institute of Technology. Dr. Hopkins found that the total cost of complying with the regulatory burden is now approaching a figure as high as $700 billion per year.

I find this figure to be troubling, particularly because regulatory compliance costs disproportionately impact small businesses, those that financially are least able to meet Federal regulatory requirements. Consider the following statistics: in 1992, the average small firm with fewer than 20 employees paid roughly $5,500 per employee to comply with Federal regulations. By contrast, firms with more than 500 or more employees spent on average a much smaller $3,000 per employee. This is a large gap that most small businesses have a difficult time bridging. While these are only statistics, they are representative of the very real impact that regulations have on our Nation's small business.

To make matters worse, Federal regulation of small businesses often lacks a sound scientific foundation, or put more simply, just doesn't make sense. Let me give you an example. I recently received a letter from a constituent of mine who operates a small biotechnology company in New York. He took great care to make his laboratories as safe as possible for both himself and his colleagues, and made every effort to comply with all existing regulations. One particular safety feature that he included in his laboratories were eyewash stations that included eye-wash bottles. These are squeezable plastic bottles that contain a buffer solution to neutralize either acid or base should it inadvertently get into someone's eyes. These bottles are also portable so that they could quickly be brought to an incapacitated victim should an accident occur.

One day, his laboratory was inspected by the Occupational Safety and Health Administration [OSHA], which fined him for not having eyewash fountains in the laboratory. Now an eyewash fountain is a fixed piece of plumbing attached to a sink. In order to use it, the employee must be able to stand on two feet and bend over to the sink. It cannot be moved, and cannot be brought to an immobilized, prone victim. I think that most people would agree that this type of fountain is far less useful than a portable eyewash bottle with a buffer solution. However, OSHA felt otherwise. They seem to believe that strict adherence to some arcane regulation, regardless of its cost or practicality, is more important than the goal of protecting people's eyes, something that my constituent was obviously trying to do.

This is just one of countless examples that I could cite that represent the absurdity of our regulatory system. I chair the Regulatory Reform and Paperwork Reduction Subcommittee of the House Small Business Committee. Last week, we held a joint hearing that looked at the use of sound science in Federal agency rulemaking. We heard testimony from distinguished scholars who indicated that Federal agencies often initiate the development of new regulations without a solid foundation of scientific evidence to support their decisions. When this occurs, the small business owners of America are left holding the bag.

The next logical question is: What can be done about this? To its credit, Congress has already done something. Last year, the Congress passed the Small Business Regulatory Enforcement Fairness Act, better known as SBREFA. This was truly landmark legislation that should help improve the regulatory process. Contained within this legislation is an often overlooked authority that allows Congress to disapprove new regulations before they take effect. This process, commonly referred to as the Congressional Review Act, gives the legislative branch a direct role in the regulatory formation process. While on its own it may not mean foolish regulations like the one my constituent has to deal with will no longer exist. However, it does mean that Congress can at least attempt to prevent new regulations of questionable substance from taking effect in the future.

The problem, however, is that Congress has not exercised its new authority under the Congressional Review Act. Since this authority became effective on March 29, 1996, roughly 3,600 new regulations have gone into effect, including 61 major rules. However, only a handful of resolutions of disapproval have been introduced, and the House of Representatives has yet to even consider one such resolution.

Why has Congress been so reluctant to use this authority? It is my opinion that Congress has been slow to take advantage of the Congressional Review Act because it lacks accurate and reliable data with which it can challenge the information of the promulgating agency. In many cases, new rules are highly complex and technical in nature. Members have neither the time nor the expertise to assess the information that the agency is using to base its regulatory decisions upon. Until Congress has access to reliable nonpartisan information, it is my belief that the Congressional Review Act will remain a paper tiger, with no real effect on improving the quality and number of regulations that are implemented.

To help in this process, I am developing legislation that should provide Members of Congress with timely and useful information with which they can assess the actions taken by the promulgating agency. All too often a regulatory agency either ignores or half-heartedly meets the regulatory analyses that it is mandated by statute to conduct. This must stop. With accurate and reliable information, Members will have a credible, factual basis on which to judge whether a specific regulation is needed or is consistent with congressional intent.

We all agree and support having a clean environment and safe workplaces, and I want to be clear that I fully support the need for strong safeguards for our environment and the American worker. However, we must ensure that the ways in which we achieve these goals are based on sound science and take into account the legitimate concerns of the small businesses that will be regulated. It is my sincere hope that Congress can in fact become more active under the Congressional Review Act, and put an end to some of the irrational regulations that Federal agencies continue to develop.

TRIBUTE TO REV. MILTON BRUNSON

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. DAVIS of Illinois. Mr. Speaker, I take this opportunity to comment on the life and legacy of a great musician, tremendous clergyman, dedicated community leader, and a wonderful American, the late Reverend Milton Brunson, who passed away on Tuesday, April 1, 1997. I share the words of his wife Joanne that "Reverend Brunson touched so many people's lives it's hard to imagine".

On April 25, 1997, Reverend Brunson would have celebrated the 49th anniversary of the Thompson Community Singers, which he helped to found in 1948. At the age of 18, while a senior at McKinley High School and director of the Gospel Chorus at St. Stephens A.M.E. Church, Reverend Brunson teamed up with Dorothy Mercer Chandler to found the Thompson Community Singers. Ms. Chandler, a gifted organist in her own right, worked closely with Reverend Brunson to keep the group together for 49 years, performing across the United States and throughout the world. The Thompson Singers performed at the Chicago Gospel Festival, the Apollo Theater, Madison Square Garden in New York, and on stages in England, Italy, and other foreign countries.

On several occasions, the Thompson Singers produced the No. 1 religious recording, and, in fact, won a Grammy Award. Under the leadership of Reverend Brunson, nearly 1,000 individuals were members of the Thompson Singers; also known as the Tommies. Jesse Dixon Mays, Ricky Dillard, Deloris Stamps, Ethel Holloway, and Angela Spivey, were just a few of the famous vocalists who performed with the Tommies.

In 1992, the Thompson Community Singers, directed by Tyrone Black received the Stellar Awards for Choir of the Year, Song of the Year for "My Mind's Made Up", and writer of the year, Darius Brooks. In 1995, Reverend Brunson and the Tommies won a Grammy Award for the recording "Through God's Eyes."

After several years of singing and choir directing, Reverend Brunson accepted a call to

the ministry and built up the Christ Tabernacle Baptist Church located at 854 North Central Street in Chicago, IL. Under the direction of Reverend Brunson, Christ Tabernacle went from its humble beginnings to a major religious institution, with over 2,000 actively participating members.

Rev. Milton Brunson will always be remembered as a legend and a legacy. We thank him for his contributions and we wish the best for his wife Jo Ann, daughters, Donna Louise, Sanita Monique, son Kevin, and sisters, brother, and grandchildren. A talented individual, a dedicated and inspiring leader, a wise teacher, and a great American was the Reverend Milton Brunson.

PAYING TRIBUTE TO TONY ZALE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. VISCLOSKY. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to a truly remarkable man, Mr. Tony Zale. Tony passed away on March 20, 1997, in Portage, IN, at the age of 83. He was a man well known for his accomplishments as a champion boxer, contributions to his community, and devotion to his friends and family.

Tony was a champion boxer, fittingly remembered as "the Man of Steel" for both his steel-like ability to withstand and deliver powerful blows in the boxing ring, and his association with a city priding itself on its massive steel production. A native of Gary, IN, Tony began his successful boxing career in 1934 upon leaving his job as a steelworker at age 21. After experiencing a string of losses early in his career, Tony Zale first displayed his extraordinary desire to achieve when he returned to steel work at U.S. Steel in 1935. Willingly accepting the most physically challenging jobs in the mill, Tony returned to boxing in 1937 with a renewed confidence and a physique so muscular it was renowned to be "metallic." Shortly thereafter, Mr. Zale's ambition of becoming a champion boxer was fulfilled when he defeated the National Boxing Association champion in July 1940. In 1941, Tony earned universal recognition as a world titleholder as he defeated World Middleweight Champion, Georgie Abrams. When returning from his service with the U.S. Navy in 1945, Tony faced his most dangerous challenger, Rocky Graziano, for what would be the first of three brutal matches. Winning the first match, losing the second, and then regaining his title in the third, Tony Zale forever marked his place in history as a champion boxer during the epic Zale-Graziano fights. When Tony retired from boxing in 1948, he left the profession with the accomplishment of fighting and beating every contender in the middleweight division during his championship reign from 1941 through 1948. During the 1950's Tony Zale was inducted into the World Boxing Hall of Fame.

Tony put forth the same effort and dedication bettering the community in which he lived as he did during his boxing career. After retiring from boxing, Tony coached at the Chicago Park District youth boxing program, where he taught children the fundamentals of boxing, as well as the fundamentals of living a good, clean life. Tony was a man devoted to teaching children the importance of education, and a coach remembered for his willingness to offer guidance both inside and outside of the ring. Other community service initiatives in which he participated include serving as a Catholic Youth Organization boxing coach, promoting youth boxing tournaments, and visiting with polio patients. Tony Zale was honored for his efforts in October 1990, when President George Bush presented him with the Presidential Citizen's Medal.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in paying tribute to Mr. Tony Zale. His children, Mary Medeiros and Theresa Gassis, grandchildren, and nieces and nephews, can all be proud of his professional accomplishments, as well as his commitment to improving the quality of life for the residents of Indiana's First Congressional District. Tony Zale will always be remembered as a true leader and will remain a role model for generations to come.

CONGRATULATIONS TO CAMP PENDLETON

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. PACKARD. Mr. Speaker, I proudly rise today to recognize Gen. Claude Reinke and the men and women of Marine Corps Base Camp Pendleton in my district in Oceanside, CA, for their dedicated effort toward environmental conservation.

I have admired General Reinke and his leadership ability and enjoyed the close working relationship we have shared for many years.

Today, Camp Pendleton is being honored by the Department of Defense as the 1996 Environmental Security Award winner in the natural resources conservation category. This award recognizes Camp Pendleton for its "outstanding accomplishments in the conservation of natural resources * * * and ensuring their continued availability for future generations.

Camp Pendleton, the largest military facility land wise was praised for the advancement in the ecosystem management of the 119,000 acres that encompasses the base. Among other aspects, Camp Pendleton's officials were especially noted for an enhancement program of two near extinct species present on the base.

It is my pleasure to also recognize Susan Gibson, an environmental program manager at Camp Pendleton, who is being individually recognized for her role in initiating "significant progress in avoiding and controlling air, water, land and noise pollution."

Mr. Speaker, as one of only six installations to ever win this award twice, I believe Camp Pendleton's men and women are to be commended for their effort and hard work toward environmental safety concerns and congratulated for winning this award.

TRIBUTE TO LINDA L. CROUSHORE, ED.D., CELEBRATING THE 10TH ANNIVERSARY OF THE MON VALLEY EDUCATION CONSORTIUM

HON. MIKE DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. DOYLE. Mr. Speaker, I rise today to honor Dr. Linda Croushore and to recognize her years of outstanding leadership at the Mon Valley Education Consortium. Dr. Croushore's vision of public education has been the source of positive change for the students and communities of the Mon Valley.

Under the direction of Dr. Croushore, the Mon Valley Education Consortium has more than lived up to its name by launching innovative projects that engage our children in the learning process while building partnerships among the 20 school districts they serve and the surrounding region. Clearly, Dr. Croushore's belief that every community has the capacity to respond through collaborative action has been proven to be true as evidenced through the countless number of success stories the consortium has helped to write over the past 10 years.

Since its inception in 1987, the Mon Valley Education Consortium has grown considerably, but its core commitment to providing every child with a quality education through the leadership, and support of many, has steadfastly remained. While not always an easy task, creating consensus from within has been a hallmark of Dr. Croushore's guidance. More than words can convey, Dr. Croushore's actions illustrate that improving our public schools is not an option, but a necessity.

I am pleased to consider Linda a friend, and know that I am not alone in having an enormous amount of respect for her. Congratulations and thank you for your significant achievements on behalf of quality public education, and most of all for your indefatigable spirit.

INTRODUCTION OF LEGISLATION TO PROVIDE A PERMANENT EXTENSION OF THE TRANSITION RULE FOR CERTAIN PUBLICLY TRADED PARTNERSHIPS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. HOUGHTON. Mr. Speaker, I am joined by my colleagues, including Mr. KLECZKA, Mr. CRANE, Mrs. KENNELLY, Mr. BUNNING, Mr. NEAL, and Mr. HERGER, in introducing legislation to permanently extend the 10-year grandfather for publicly traded partnerships [PTP's]. This legislation applies to those PTP's that were in existence at the time the Omnibus Budget Reconciliation Act of 1987 was passed.

Publicly traded partnerships were first created in the early 1980's for the purpose of combining the traditional limited partnership

form with the ability to still have the partnership units freely traded on an established securities market or are readily tradable on a secondary market.

Section 7704, which was enacted as part of the Omnibus Budget Reconciliation Act of 1987, provides that certain publicly traded partnerships shall be taxed as corporations. However, the 1987 act completely exempted certain types of PTP's from the reach of section 7704. To be an exempt PTP, 90 percent or more of the partnerships gross income must be qualifying income. In other words, income derived from resources such as timber, oil and gas, minerals and real estate. Further, an exempt PTP need not have been in existence in 1987 when section 7704 was enacted. In addition, other PTP's in existence when section 7704 was enacted were grandfathered, but only for 10 years, through 1997. Our bill would extend this grandfather provision permanently.

I can foresee that some people might view this proposal as special interest legislation. I strongly disagree. Had we chosen in 1987 to provide a permanent grandfather for existing PTP's, no one would have batted an eye. Instead, a permanent grandfather in 1987 would have been an appropriate decision for Congress to make based on the extent to which PTP's relied on the law that was in effect when they were created. The fact that the decision was initially made in 1987 should not stop us from revisiting the issue so long as the original decision has not yet taken effect.

We in Congress are called on to make decisions about appropriate transition relief in virtually every tax bill. Indeed, these types of decisions are ones that are particularly suited for the Members of Congress to make, since they generally involve the balancing of competing interests rather than technicalities of tax law.

Our proposal is different only because it is separate in time from the 1987 act. On the other hand, the proposal is generic in scope, applying to any PTP fitting the criteria. We believe that it is fair, before the 10-year grandfather expires, to determine whether the previous decision was proper or whether a permanent rule is a better choice.

Generally, Congress does not place time limits on grandfather provisions, other than what might be called project-specific provisions. The reasoning behind this policy is that if taxpayers were justified in relying on the law in effect at the time the taxpayer took action, then the taxpayers deserve relief from the change in the law, not just for a limited period but as long as the taxpayer's circumstances do not change.

REASONS FOR A PERMANENT GRANDFATHER

Some may wonder why these PTP's should be permanently grandfathered. After all, if they were taking advantage of so large a loophole that Congress had to shut it down, why should they benefit merely because they got in under the wire?

The truth is that these PTP's did not take advantage of an egregious loophole. PTP's are structured no differently from other types of limited partnerships. They merely combined that basic limited partnership structure with the ability for the units to be readily traded. The problem was thus not a loophole in the Tax Code that needed to be closed retroactively.

These PTP's relied on the law in effect before passage of the 1987 act, and that reliance was completely reasonable. The first proposal directed toward PTP's surfaced in 1984, but President Reagan chose not to forward it to Congress in his tax reform recommendations and we did not independently take up the idea in 1986. It was only when Treasury proposed section 7704 in mid-1987 as part of a list of acceptable revenue raisers that the proposal received any official endorsement. By that time, most of the affected PTP's were already in existence.

This raises what I believe is the most important issue in this debate: fairness to the PTP's and, more important, their owners. The process of converting from a corporation to a PTP is a costly and time-consuming one, easily taking over 1 year. The conversion process involved consultation with investment bankers, appraisals, planning by corporate finance, securities and tax lawyers, multiple filings with the SEC and State securities agencies, proxy statements and shareholder votes, etc. This process would not have been started or completed had there been any reasonable prospect that a change in the tax law would have applied retroactively or after a limited period of time.

To make matters worse, many of these same costs will be incurred once again if the 10-year grandfather is not made permanent. Grandfathered PTP's will be forced to convert to corporate form on January 1998. To do so, however, will require lengthy planning, and the same investment banking advice, appraisals, and attorney fees. The need for extensive, advance planning makes it essential that the matter be resolved this year.

More important, is the effect that loss of the grandfather will have on PTP investors. It is a virtual certainty that the value of PTP units will be affected adversely if the grandfather expires. Thus, the investor will suffer the most. Who are these investors? Most are average, middle-class taxpayers who have invested in PTP units because of their high yield, many before the 1987 act was passed.

We do not achieve any tax policy goal by honoring the 10-year grandfather. That goal was fully achieved by making section 7704 apply prospectively. Instead, all we would accomplish by retaining the 10-year grandfather would be harm to these PTP's and their investors. There is no doubt what our decision should be.

In conclusion, I want to note the diversity of the PTP's that would benefit from permanent extension of the grandfather. The PTP's affected are involved in a wide variety of industries, from motels and restaurants to chemicals, financial advising and macadamia nuts. Undoubtedly, these businesses operate in many of our districts. Of course, our districts are the homes to the individual investors in these PTP's. The most recent court indicates that there are well over 300,000 individual investors.

The 10-year grandfather hangs like a sword of Damocles over each one of these PTP's. We in Congress have the ability to remove that sword and there is no reason why we should not do so. We urge our colleagues to join with us to support this bill.

THE KINSHIP CARE ACT OF 1997

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mrs. MORELLA. Mr. Speaker, I rise to introduce a bill to encourage kinship care families, families in which adult relatives are the preferred placement options for children separated from their parents.

Last year I introduced similar legislation, and I am pleased to report that a portion of it was incorporated as part of welfare reform—States must now consider relatives who are willing and able to care for minor children before placing them in other foster care situations.

The legislation I am introducing today would go one step further by giving States the flexibility to create a new type of foster care—kinship care—as a demonstration project. It would authorize States to examine and test how their child protection system could incorporate safe, cost-effective kinship care placements. States would have increased flexibility to waive portions of the IV–E foster care program in order to provide services and payments to kinship-care placements. It would help families to rely on their own family members as resources when a child is legally separated from his or her parents.

We clearly need this legislation. From 1985 to 1990, the number of children in foster care increased by 47 percent, while the number of foster families decreased by 27 percent. Furthermore, when a child must be removed from his or her parents, placing the child with a caring relative helps keep the family together and limits disruption to the child's life. Ironically, relatives who want to care for the child often find themselves burdened with legal and bureaucratic paperwork and regulation, and they lack the support services available to regular foster care families.

By giving States the flexibility to create a new type of foster care—kinship care—support services and payments could be made to kinship care placements. States would transfer custody of the child to the adult relative and then would have the flexibility to make some payments and provide services to these children under the IV–E program. Kinship care could be considered a long-term placement option for the States.

In order to be considered an eligible family for kinship care placements under this bill, certain criteria must be met. The child must be removed from the home as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child, the child would otherwise be place in foster care, and that there are adult relatives willing to provide safe and appropriate care for the child.

This legislation is revenue neutral because States would incorporate kinship care into their child welfare system. States would evaluate their kinship care system for outcomes for children and families, safety of the children, and cost savings. At the end of 4 years, the Secretary of Health and Human Services would evaluate the State kinship care demonstrations and recommend legislative changes based on their evaluations.

This legislation would also require States to provide relative caregivers with notice of, and an opportunity to be heard in, any dispositional hearing or administrative review held when considering the health and safety of a related child.

Mr. Speaker, I have heard from grandparents who desperately want to provide their grandchildren a loving, supportive, and safe home. Because of burdensome regulations, these children end up in the expensive foster care system. Grandparent groups around the country support this legislation, I met with many of them today. I strongly urge my colleagues to cosponsor this bill and urge its swift passage.

HONORING PASTOR RODERICK MITCHELL

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. THOMPSON. Mr. Speaker, I rise today to honor Pastor Roderick Mitchell, one of my constituents who has had an invaluable role in the lives of many families in the Mississippi Delta.

Pastor Mitchell grew up in a troubled household and was forced to spend much of his childhood protecting his mother and younger siblings from his abusive father. He never forgot those mornings he passed crouching, hiding miserably in the cotton fields surrounding his home.

Pastor Mitchell now divides his time between his ministry in Cleveland, MS and his many initiatives to speak out against spousal violence, sexual assault, and child abuse. In 1995 he established a desperately needed rape crises program in his church that has evolved into a community-based organization, the Exodus Center for Life, which provides services to all victims of crime. Pastor Mitchell is perhaps best known for his educational programs that use puppets to teach children in Headstart programs about child abuse and also give information about date rape and domestic violence to youths in school. He has implemented a violence prevention program for teenagers called Preparing our Sons for Manhood, and he also serves as a counselor in Men Against Spousal Harm [MASH], a treatment program for batterers in the Mississippi Delta.

One of Pastor Mitchell's colleagues summed up his efforts recently, saying, "his experience as a victim of domestic violence and his deep belief in the power of education transcend cultural and denominational barriers, reaching all crime victims, young and old, as well as at-risk youth with inspirational messages that help to heal and prevent crime."

Mr. Speaker, Mississippi and this Nation owe a debt of gratitude to Pastor Mitchell. If we are ever to transcend the cycle of violence, hatred, and anger that plagues America, we will need to follow this shining example of selfless determination. I honor Pastor Mitchell, and I thank him for his work.

TRIBUTE TO THE CENTENNIAL OF ALLENHURST, NJ

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. PALLONE. Mr. Speaker, on April 26, 1997, the Borough of Allenhurst, NJ, will celebrate the 100th anniversary of the founding of their community. A reenactment of the first meeting of the board of commissioners will take place at the Allenhurst Beach Club on Saturday at 3 p.m. The celebration of the borough's centennial will continue with a variety of community events throughout the rest of the year.

Mr. Speaker, 100 years ago, in April 1897, the Borough of Allenhurst had the first meeting of its board of commissioners. Of course, this was not the beginning of the history of life in the area as we now call Allenhurst. A Scotsman named Gawen Drummond bought the land for native Americans. The land was for many years part of the Allen Farm, and there were two hotels, the Allen Hotel and the Crow's Nest. In 1896 the Coast Land Office was built at the corner of Page and Corlies Avenues, and in the next 20 months 58 cottages were constructed. The Coast Land Company placed ads in New York and Philadelphia newspapers extolling the borough's wise exclusiveness. The following year, the borough was incorporated.

Mr. Speaker, a lot has changed in Allenhurst, NJ, and America since the founding of Allenhurst. One hundred years ago, Grover Cleveland was President, San Francisco had a massive earthquake, the Spanish-American War was being fought, the first World Series was held and construction of the Panama Canal began. But much has remained the same: The beauty of the ocean and beaches of the Jersey Shore and the deep sense of community pride felt by the residents of Allenhurst.

On April 26 at 3 p.m., the minutes of the original meeting will be read. Mayor Coyne and Commissioners Ruocco and McCarthy will be dressed in 1896-style costumes. Mr. Speaker, I want to congratulate the borough officials and all the residents of this beautiful oceanfront community on this historic occasion and look forward to working with them to make the next 100 years every bit as good as the first century.

ARMENIAN GENOCIDE

SPEECH OF

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 23, 1997

Mr. TOWNS. Mr. Speaker, as we approach a new millennium we cannot forget the launching of the April 24, 1915 pogrom of some 200 Armenian religious, political and intellectual leaders from Constantinople [Istanbul]. For 8 years, 1.5 million Armenians suffered grave repudiation by the government of the "Young Turk Committee." This unfortunate history must be memorialized and remembered such that the world can understand that this tragedy represents the first example of genocide in the 20th century. This observation is not made lightly; but the facts about the destruction of the Armenian people cannot be ignored.

As Armenians and people of conscience throughout the world commemorate April 24, we must accurately depict history to ensure that it is never repeated. Continuing to deny the truth about an important part of world history creates the view that it was just an "unfortunate incident" and nothing else. This inaccuracy can be nothing further from the truth and allows for similar atrocities to occur.

Mr. Chairman, on this day I urge all of my colleagues to remember the horrible events that occurred in the early part of this century. May they never be repeated again.

LEE HIGH SCHOOL'S SINGING LANCERS TOP THE CHARTS IN ATLANTA COMPETITION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. HYDE. Mr. Speaker, the spotlight at the April Fiesta-Val Music competition held in Atlanta, GA was focused on the Choirs of Lee High School.

The performance given by the 20-member Madrigal Choir earned them a superior rating by the judges, placing Lee first in their division. Achieving a superior rating over their 15 competitors, the Fiesta-Val Champion Trophy was presented to Lee Madrigals for reaching the highest numerical score of any choir in their division.

The next group to be called into the winners' spotlight was Lee's Ladies' Chamber Choir. The chamber choir gave another outstanding performance before the panel of judges who rated this choir superior. The Concert Choir was the next to be honored with an excellent rating for their performance.

Noteworthy is the selection of Lee's Singing Lancers as the Fiesta-Val's recipient of the 1997 Grand Champion trophy. To receive this distinctive recognition as overall champions, the Singing Lancers marked the highest combined scores of all choirs competing in the festival.

The awards cited above have become a tradition for Lee's choral program through the hard work and dedication of its director, Mr. Lindsey Florence. Were it not for this outstanding director, the students may never have reached this plateau in their high school music experience. This remarkable contribution was recognized when the festival sponsors presented Mr. Lindsey Florence with the coveted Award of Distinction in recognition of his notable contribution to musical excellence.

Congratulations to the director, Mr. Florence, and his wonderful students: Shely Abbott, Matt Aberant, Denise Absher, Karen Albers, Jessica Alonzo, Alex Arndt, Mary Assad, Nicki Baugher, Ashley Bush, Nicki Clark, Amy Cole, Cindy Craig, Elizabeth Crego, Rachel Cully, Abigail Dosch, Kelly Drier, Mary Fitzgerald, Heather Flemming,

John Goff, Craig Goheen, Brian Gresham, Rachel Griffin, Kristen Hampton, James Hare, Brandon Henrich, April Holloman, J.P. Javier Wong, Erlend Johnson, Kim Johnson, Mary Kim, Peter Laver, Mike Lazear, Corrine Leahey, Darcie Lee, Dan Lee, Ruth Leeds, Chrisina Lewis, Anna Lipari, Courtney Mallon, Tara McCabe, Caroline McClaugherty, Heather McDonald, Darin McMillion, Dave McMullin, Abby Meyer, Jamie Michaud, Michelle Montvai, Carrie Moore, Shawn Newman, Ty Oxley, Vanessa Pannell, Alicia Peretti, Corey Perrine, Jessica Piansky, Sara Poh, Alicia Powell, Anna Ramdeo, David Reynolds, Terri Richards, Miranda Romero, Julie Saholsky, Beth Silvola, Leslie Simpson, Justin Smallwood, Julie Stoops, J.R. Stratton, Damara Thompson, Nhien To, Kristin Unger, Melissa Wilkerson, and Audrey Wright.

PERSONAL EXPLANATION

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. RAHALL. Mr. Speaker, on Wednesday, April 23, 1997, I was unavoidably detained and missed rollcall votes Nos. 86 and 87. Had I been present and voting, I would have voted "yes" on each of the amendments to H.R. 400 as offered by Mr. CAMPBELL of California.

RETIREMENT OF CAPT. CHARLES CONNOR, U.S. NAVY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. SKELTON. Mr. Speaker, over the past 25 years, Capt. Charles D. Connor has been a leading force in the Navy's public affairs community. His efforts, through a wide variety of assignments, played an integral role in articulating the Navy story, and ensuring public support for our policies and programs.

His early public affairs assignments, including U.S.S. *John F. Kennedy,* Armed Forces Bicentennial Program, Navy Recruiting Region Pacific Northwest, Navy Public Affairs Office Midwest, and Navy Recruiting Command laid the groundwork for stellar performance in the most challenging and influential billets in the PAO community.

In the late 1980's, Captain Connor went on to lead the public affairs efforts of the U.S. Third Fleet, following that success with 3 years at U.S. Space Command. His most recent assignments put him truly at the top of his field, where his broad professional expertise has been of incalculable benefit to the U.S. Navy.

As public affairs director of U.S. Navy European Headquarters, 1992–1994, Captain Connor, created, planned and executed the commemoration of the 50th Anniversary of the Normandy Invasion, the centerpiece of which was the globally televised Presidential embarkation aboard Navy ships. This special event successfully underlined the fact that American power projection relies on a forward-based Navy, a vital communication objective which was brilliantly conceived and implemented. His efforts were personally commended by the White House.

As the Deputy Chief of Information, 1994–1995, Captain Connor directed national and international Navy public affairs programs, managing global day-to-day media, community and internal relations operations involving hundreds of people and a multimillion dollar budget. He also created the first standardized manual on the operation of nine regional public affairs offices and introduced digital photography transmission to media, producing significant savings in processing costs.

Captain Connor's outstanding public affairs acumen culminated in his assignment as public affairs officer for the Secretary of the Navy in 1995. During a time of great change and volatility due to downsizing, he spearheaded the Secretary's communications program targeting both internal and external audiences. His efforts resulted in a greater understanding of and advocacy for the Secretary's initiatives, both within the Navy and externally through the news media.

He is a strategic thinker who is action-oriented. Captain Connor's professional excellence, diligence, and loyalty have made him a great asset to the U.S. Navy. I take this opportunity to wish him well upon his retirement from the Navy and for continued success. He has truly been a role model for public affairs officers who follow him.

MAKING A DIFFERENCE IN SAN BERNARDINO COUNTY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of thousands of committed citizens in Calfiornia's 40th Congressional District. San Bernardino County, the largest county in the continental United States make a difference on October 26, 1996, with an ambitious project entitled, "Community Cleanup: Our Fight Against Blight." For this ambitious undertaking, the San Bernardino Make a Difference Day project was recently chosen as one of the top 10 national winners by USA Weekend Magazine and a panel of celebrity judges. This tremendous effort will be recognized at a luncheon on May 1 recognizing outstanding achievements during national Make a Difference Day.

The San Bernardino Make a Difference project was launched at a time when the local newspaper, the San Bernardino County Sun, ran a series of well-written articles addressing the issue of blight in the local community. The result was a countywide effort undertaken on national Make a Difference Day. The remarkable effort to undertake a community cleanup was spearheaded by the city of San Bernardino and Mayor Tom Minor in a collaborative effort with Norcal/San Bernardino, San Bernardino County, Arrowhead United Way, the Volunteer Center, and the San Bernardino Area Chamber of Commerce. Twenty-four cities in San Bernardino County embraced the concept with proclamations and letters of support from local mayors. Twenty-two community newspapers and five radio stations promoted the project with public service announcements and press releases. To encourage citizen participation, 16 country landfills were open free of charge to residents on October 26. The result was more than 3.5 thousand tons of trash, including 5,000 tires, deposited at county landfills.

In addition to the many county residents who participated, about 130 volunteers worked on 10 other related projects. Paul Chaney, a private business owner, with the assistance of other volunteers from the Children's Fund and the Volunteer Center, picked up trash along a 2-mile stretch of Little Mountain. Employees of Raintree Insurance Co. and a youth group from the Nazarene Church painted graffiti in various sections of San Bernardino. While a Girl Scout troop cleaned up a local creek and filed a commercial dump truck, members of Los Padrinos cleaned, trimmed, weeded, and hauled away trash for elderly citizens. Thirteen neighborhood association groups in San Bernardino also picked up trash and painted graffiti in and around their neighborhoods.

Mr. Speaker, this remarkable effort is 1 of 11 chosen from over one million participants nationwide joining in national Make a Difference Day. The many fine people of San Bernardino County have made a difference, and will continue to make a difference, to improve the quality of life for our citizens. I am extremely proud of this effort and it is only fitting that House of Representatives recognize this achievement today.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. BALLENGER. Mr. Speaker, had I been present for rollcall votes 86, 87, 88, and 89 on Wednesday, April 23, I would have voted "yea."

TRIBUTE TO WILLIAM BAKER

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. FARR of California. Mr. Speaker, I rise today to pay tribute to a man who has made it his professional mission to serve the State of California and its 32 million people. William Baker, whose career has spanned more than three decades, will be retiring this year as vice president of university and external relations for the University of California system.

Ever since starting work for UC some 33 years ago, Bill has been a steady force, helping to guide the university through its most formative years. Now with nine campuses, five teaching hospitals, and the three national laboratories it manages for the Federal Government, UC's $10 billion budget is larger than

that of many States. Bill has been instrumental in maintaining the university's prominence as one of the top university systems in the country. I speak from personal knowledge, when I say that Bill Baker is an influential voice for education on Capitol Hill.

A fourth-generation Californian and a native of Berkeley, Bill is a 1958 civil engineering graduate of the University of California, Berkeley. It was as an undergraduate that he began his university career as a mail clerk under former UC President Robert Gordon Sproul. Bill went on to become a licensed civil engineer and worked as a State engineer on the restoration of the San Francisco-Oakland Bay Bridge.

Bill returned to university service in 1964 as an associate engineer in UC's systemwide office. In 1974, he was named director for capital improvements planning and budgeting, and was named assistant vice president for budget, analysis, and planning and special assistant to the president on April 1, 1979. He was named vice president for budget and university relations by former President David Gardner on October 1, 1983. Bill assumed his current title in 1993.

Besides his professional pursuits, Bill has found time to give even more back to the people of both his State and country. Active in numerous national and State associations supporting higher education, he also participates on a State and national level as a mediator and arbitrator in the construction industry. Bill is a member of the board of directors of the California Council on Science and Technology, which I created with Bill's leadership, and of the American Arbitration Association. He is also a member of the American Society of Civil Engineers.

Mr. Speaker, I could go on and on about Bill Baker. To me, he embodies the very best in public service. Committed and compassionate, Bill has demonstrated every day and in every way that the best way to advance the public good is by doing good for the public. We are fortunate to have been touched by his works. He is a "true blue."

HONORING GIRL SCOUT GOLD AWARD RECIPIENTS

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. LAHOOD. Mr. Speaker, today I would like to salute five outstanding young women from the 18th district of Illinois who will be honored with the Girl Scout Gold Award by Kickapoo Council of Girl Scouts in Peoria on May 4, 1997. The Girl Scout Gold Award is the highest achievement award in U.S. Girl Scouting, symbolizing outstanding achievements in the areas of leadership, community service, career planning, and personal development. The award can be earned by girls aged 14–17, or in grades 9–12. The recipients of this award at this time are Angela Hess of Girl Scout Troop No. 301, Renee Hinnen of Girl Scout Troop No. 4, Rebecca Roth of Girl Scout Troop No. 345, Katy Rodgers of Girl Scout Troop No. 257, and Amy Hale of Girl Scout Troop No. 357.

Girl Scouts of the U.S.A., an organization serving over 2.5 million girls, has awarded more than 20,000 Girl Scout Gold Awards to senior Girl Scouts since the inception of the program in 1980. To receive the Gold Award, a Girl Scout must earn four interest project patches, the career exploration pin, the Senior Girl Scout Leadership Award, and the Senior Girl Scout challenge, as well as design and implement a Girl Scout Gold Award project. A plan for fulfilling these requirements is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

In the process of earning their Gold Awards, these Girl Scouts made significant contributions to their community. Angela Hess completed her project by working with a local children's hospital in planning activities for the children and then doing the activities with them. Renee Hinnen planned, organized, and implemented the registration, snack time, and lunch time activities for the Isaac Walton League's "Kids in the Woods" program. Rebecca Roth planned and implemented a sports and games day for the purpose of recruiting others to become Girl Scouts. Katy Rodgers taught dance to underprivileged children who cannot afford lessons, and Amy Hale organized a reference library at her church, and designed study sheets for Sunday school teachers and youth group leaders. I believe these young women should receive the public recognition due them for their efforts and their service to their communities and country.

IN HONOR OF THE URBAN LEAGUE OF HUDSON COUNTY, INC.'S 19TH ANNUAL EQUAL OPPORTUNITY DAY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a remarkable organization, the Urban League of Hudson County, Inc. as it celebrates the 19th anniversary of its Equal Opportunity Day. This annual event, which serves to reaffirm the laudable mission of providing equal opportunity to community members, will be celebrated on April 24, 1997 at the Meadowlands Hilton Hotel in Secaucus.

The Urban League of Hudson County, Inc.'s role as a pre-eminent community institution began over a quarter century ago during a turbulent time in the Nation's history. In 1971, we had just come through a decade when the movement toward civil rights took its toll on the urban leaders of our society: Martin Luther King, Jr., Medgar Evers, and Malcolm X. Shabazz, all assassinated in their prime. The mission of this new organization was to continue these leaders' legacy and to help ensure equal opportunity for all members of our American family. Since its inception, the Urban League of Hudson County, Inc. has endeavored to provide positive family images to which others could aspire.

Today, Americans living in urban areas are portrayed too often with violence and in economic distress. The Urban League of Hudson County, Inc., under the direction of current president and CEO Elnora Watson, has made tremendous strides in reversing that stereotype through its various programs, such as AmeriCorps, the Adolescent Servicing Center, Adopt-A-Parent, Beginning Alcohol and Addiction Basic Education Studies, Family Development Program, job placement and retention, mentors for youth, Parent Community Mobilization Initiative, and parenting skills workshops. Graduates of these valuable programs will hopefully go on to become productive residents of Hudson County and become beacons of hope for others in their communities.

This year, the Urban League of Hudson County, Inc. will mark the 19th anniversary of its Equal Opportunity Day Dinner. On this momentous occasion, a number of people will be recognized for working tirelessly to dispel the negative images of urban Americans as portrayed by the media. The award recipients for 1997 include: Catherine Easterling Todd, Nantexter Ferguson Sebron, Betty Warren, Mary L. Setzer, Barbara A. Briggs, Patricia Sebron, Kathleen Washington, Pamela O'Neal, Philip Martin Bonaparte, M.D., Blynette Rogers, Patricia Jackson Robertson, Dale Porter, and Blanche McDuffy Smith. Each of these outstanding individuals has made a unique contribution to enhancing the image of the Urban League of Hudson County, Inc.

I ask that my colleagues join me in honoring this special organization. The Urban League of Hudson County, Inc. serves as an example of what can be accomplished when people when people work toward a common goal. It is an honor to have them providing services to the residents of my district.

TRIBUTE TO THE HONORABLE JOHN T. MYERS

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. HOSTETTLER. Mr. Speaker, I rise today to inform the chamber that on Friday, May 9, the Uniontown Locks and Dam, located on the Ohio River between Indiana and Kentucky, will be renamed the John T. Myers Locks and Dam. Uniontown Locks and Dam is just 2 miles south of the confluence of the Wabash River and the mighty Ohio. As John was born and raised along the Wabash in Covington, IN, I can think of no better honor for an individual who dedicated so much of his life to public service, most of that time devoted to watching over our Nation's vast waterways system.

Representative John Meyers served the people of the Seventh Congressional District of Indiana for 30 years before retiring at the end of the 104th Congress. For most of that distinguished career, the citizens of Indiana were fortunate to have him represent them on the House Appropriations Committee. His leadership on the Energy and Water Development Subcommittee, in particular, helped ensure that our Nation's waterways, which are so vital to our national economy, remained navigable.

On May 9, John's many friends will converge on the Uniontown Locks and Dam site to officially recognize his contribution to inland navigation by renaming and dedicating this facility in his honor. It is a fitting tribute to a man whose visionary leadership has played such a significant role in the development and maintenance of America's rivers, ports and harbors.

ARMENIAN GENOCIDE

SPEECH OF

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 23, 1997

Mr. BERMAN. Mr. Speaker, I rise today in commemoration of the Armenian genocide.

The atrocities committed against the Armenian people in the late 19th century and the early 20th century ranks among the worst such occurrences in human history. As the 19th century drew to a close, authorities in the crumbling Ottoman Empire decided to crack down against a growing movement for Armenian autonomy. After enduring brutal persecution, the Armenians refused to pay the taxes levied by their oppressors. As a result, thousands of innocent civilians lost their lives and thousands more witnessed the destruction of their homes—all because the Ottoman Government wanted to teach them a lesson.

When the Armenians sought to publicize their plight by seizing a government building in Constantinople, government forces instigated a vicious pogrom during which over 50,000 perished. Several years later during the First World War, Armenian service in the Allied cause prompted the Turkish authorities to order the deportation of almost the entire Armenian population from their homeland to two distant provinces of the Turkish Empire, Syria and Palestine. Well over one million died during this long forced march, many thousands at the hands of government soldiers and many more from disease and malnutrition.

It is unfortunate that we have not managed to escape the consequences of these atrocities. The legacy of bitterness is readily observable in central Asia, where memories of past injustice have complicated the search for peace and stability in Nagorno-Karabakh.

As the horror continued, thousands of Armenians came to this country. Many of their heirs now live in my own State of California, where they have established an enviable record of prosperity and service to the United States. California is home to the largest Armenian-American population in the United States. The California State Assembly designated April 24, 1997 as "California Day of Remembrance for the Armenian Genocide of 1915–23, and for the Victims of the Sumgait Pogroms of 1988 and Baku Riots of 1990."

The resolution notes that Armenians in Nagorno Karabagh remain at risk until a peaceful resolution to the Karabagh conflict is reached that guarantees the freedom of security for these people while supporting their right to self-determination.

We join Armenians around the world as we remember the terrible massacres suffered in 1915–23, among one of the worst tragedies to befall a group of people.

Even though this is a day of commemoration for the thousands who perished in the Armenian genocide, we must not forget the great duty of those now living to prepare a better world for generations to come.

INTRODUCTION OF "THE INSULAR FAIR WAGE AND HUMAN RIGHTS ACT OF 1997"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MILLER of California. Mr. Speaker, today I am introducing legislation to address the systematic, persistent, and inexcusable exploitation of men and women in sweatshops in the Commonwealth of the Northern Mariana Islands, a territory of the United States of America.

Despite criticisms from the Congress and Federal agencies, and despite promises by CNMI leaders of sweeping change of aggressive action against abusive employers, these conditions continue today, confirmed by CNMI observers, human rights and religious organizations, and Federal enforcement and oversight agencies. These workers are not free, and are not given the same opportunities and protections every other worker in the United States or its territories is provided. To these workers, the American dream has become a nightmare.

Consumers in the United States and around the world expect that the label "Made in USA" stands for something. American manufacturers know that label signifies compliance with basic worker protection laws and human rights guarantees. But in the CNMI, that made in USA label is used to conceal systematic exploitation.

Last week, President Clinton and garment industry leaders announced a U.S. apparel industry partnership dedicated to eliminating sweatshop working conditions around the world. Those efforts must also focus on our own soil, on the CNMI, where conditions that could not be tolerated anywhere elsewhere in America flourish with the blessings of the local government.

In the CNMI, human rights and the basic rights all American workers are supposed to enjoy are routinely brushed aside in the pursuit of an economic miracle. The CNMI Government is currently spending in excess of $1 million in an unprecedented effort to paint a highly favorable picture of its economy.

But the record indicates this is no economic miracle; it is an economic mirage, built on exploited foreign labor.

Freed from U.S. immigration and minimum wage laws, the CNMI—

Uses its immigration policy to open its borders to a flood of foreign workers—from the Philippines, China, and other Asian countries—that now outnumber the indigenous population.

Maintains a minimum wage of as little as $2.90 an hour for garment workers—and far less for household workers and farmers—despite promises to bring wages to the Federal level.

Ignores employer restrictions against U.S. laws—such as the right to unionize and to receive all wages earned, instead maintaining a bureaucracy that makes it all but impossible for workers to seek redress.

Fails to prosecute aggressively those who mistreat and abuse foreign labor by forcing them into prostitution and other types of involuntary sexual activity, who restrict their expressions of political beliefs, and who deny them the wages they have earned. In fact, many workers have said that speaking out against battery and rape, against unsanitary living barracks, against illegal wage withholdings, long hours or violations of their work contract, can result in prompt deportation and the forfeiture of their wages.

Congress in recent years, on a bipartisan basis, has called upon the CNMI to end these abuses, but with little effect. In fact, the CNMI Government has passed several laws that actually roll back worker protections, and broke a promise to the U.S. Congress to raise its minimum wage across the board, to the Federal level.

This continuing pattern of abuse and indifference to human exploitation demands a rapid response from the Congress and from the Clinton administration. Today, along with several cosponsors, I am introducing legislation to protect the integrity of the "Made in USA" label by only permitting its use when all applicable labor laws are obeyed.

This legislation will increase the minimum wage in the CNMI in stages until it matches the Federal level.

Lastly, this legislation will also bring the CNMI under the Immigration and Naturalization Service which, unlike the CNMI's Government, has the skills and resources to establish credible and enforceable policies that do not sanction the exploitation of men and women.

HOME EDUCATION WEEK

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. BLUNT. Mr. Speaker, I am pleased today to voice my support along with the Missouri State Senate and the Missouri House of Representatives for home education. The Missouri General Assembly has designated the second week of May as Home Education Week. Missouri has been recognized as a leader nationwide in the home education movement. Home Education Week is a good way to acknowledge those parents in Missouri who have helped to establish a strong foundation for quality home education.

Home education has always been unique because it provides the opportunity for children to be taught by their parents or someone the parents trust. Home educators are able to meet the individual needs of their children by designing educational lessons for each child. They also provide children in home education numerous opportunities to learn through hands-on activities, where they are able to apply what they are learning in real-life settings. The one-on-one interpersonal ties that are developed in home education between a

parent and their children establish solid mentoring relationships.

I know of many families in the Seventh District of Missouri that I represent who educate their children through more than just their textbooks. They regularly take field trips and conduct science experiments so that they can apply what they are learning. I know one family who has entered award-winning projects in the Ozark Empire Fair in science and drawing competitions as well as winning awards regionally and statewide in speech contests. The Will Purvis family is one of many southwest Missouri families who are making a visible difference in the education their children through home education.

I want to thank each parent who has made the decision to educate their children at home. This decision requires a great amount of dedication. This dedication requires planning and preparation that involves many extra hours and late nights of preparation. Their dedication results pay off in home-educated students that do well when they compete with their peers nationwide in private and public schools and in higher education. We should continue to support their dedication as they continue to make a visible difference.

IN HONOR OF TERTULIAS DE ANTANO AND ITS FOUNDER LIDIA GIL-RAMOS: MAKING A DIFFERENCE FOR SENIOR CITIZENS IN NORTH HUDSON COUNTY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an exceptional woman, Ms. Lidia Gil-Ramos and the exceptional organization which she founded, Tertulias de Antano. The contributions of Ms. Lidia Gil-Ramos and Tertulias de Antano will be celebrated at the group's 23d Anniversary Dinner Dance to be held at Schutzen Park in North Bergen, NJ, on Sunday, April 27, 1997.

Such a well-respected program, Tertulias de Antano, is the result of the unwavering dedication of its founder Lidia Gil-Ramos. Before arriving in Union City, NJ, in 1965, she taught both elementary school and elderly farm workers in her homeland of Cuba. Education was also a personal passion for Ms. Gil-Ramos. She earned her masters degree from the University of Havana. This extraordinary woman then became director of a large nursing home in San Miguel de los Banos, Matanzas in central Cuba.

Upon arriving in America, Ms. Gil-Ramos found employment as an income maintenance specialist for the Food Stamp Program in Jersey City. Her dedicated service to senior citizens began with the Cuban refugee program in her adopted hometown of Union City. There Ms. Gil-Ramos witnessed the difficult process of adjustment experienced by many Cuban seniors in their new environment. Resolved to make a positive difference in the lives of the senior citizens in the community, Ms. Gil-Ramos instituted the Tertulias de Antano recreational program on October 13, 1974.

Ms. Gil-Ramos is the heart and soul of Tertulias de Antano. This invaluable program dispenses information concerning English-language programs, health care issues, and community events to area seniors. Presently, this uniquely beneficial program is applauded by senior citizens from countries throughout Latin America who have found a new home in Hudson County. Ms. Gil-Ramos' vision and commitment to excellence are evident in the pleasure experienced by senior citizens who have benefited from the services of Tertulias de Antano.

It is an honor to have Ms. Lidia Gil-Ramos and Tertulias de Antano as parts of the community in my district. They are shining examples of what can be accomplished when people work together toward a common goal.

PERSONAL EXPLANATION

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Ms. DEGETTE. Mr. Speaker, I was unavoidably detained on the evening of Thursday, April 17, 1997, during rollcall vote No. 85. Had I been present, I would have voted "no."

U.S. POSTAL SERVICE ISSUES STAMP TODAY HONORING RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. LANTOS. Mr. Speaker, today at a extremely moving ceremony at the U.S. Holocaust Memorial Museum, a stamp honoring Swedish humanitarian and Holocaust hero Raoul Wallenberg was issued. This is a most appropriate step, and I congratulate the Postal Service for this action. Raoul Wallenberg was responsible for saving as many as 100,000 lives in Budapest, Hungary, in the closing days of World War II.

It is most appropriate that we honor Raoul Wallenberg with a U.S. stamp. In this age devoid of heroes, Wallenberg is the archetype of a hero—one who risked his life day in and day out, to save the lives of tens of thousands of people he did not know, whose religion he did not share.

Mr. Speaker, I want to salute the men and women of the U.S. Postal Service, and Postmaster Gen. Marvin Runyon, for their help and support in recognizing and honoring the legacy of Raoul Wallenberg. The cooperation and assistance for today's ceremony from the U.S. Holocaust Memorial Museum and its staff was invaluable in today's most impressive ceremony.

I want to offer special thanks to a number of individuals who participated in today's ceremony: my colleague, Senator CARL LEVIN ; Miles Lehrman, chairman of the U.S. Holocaust Memorial Council; S. David Fineman, Postal Service Governor; and my granddaughter Chelsea Lantos-Swett. I also want to pay tribute to the efforts of Ilene Munetz Pachman, who energetically pursued her dream of a stamp honoring Raoul Wallenberg, and my wife Annette, who has devoted so much of her life to making known the story of Wallenberg and worked tirelessly for the release of Wallenberg from Soviet prison. We were honored at the Holocaust Museum today with the presence of a number of our colleagues from the Congress, as well as a number of representatives of the diplomatic corps.

Born on August 4, 1912, an heir of a prominent Swedish banking family, Raoul Wallenberg studied architecture at the University of Michigan in the 1930's. In 1944, at the urging of the United States Government's War Refugee Board, he was appointed a Swedish special diplomatic envoy to Hungary. Without regard for his own safety, Wallenberg went to Hungary and worked to save tens of thousands of Jews from Nazi death camps, primarily by issuing Swedish protective passports and establishing safe houses under Swedish diplomatic protection where Jews were able to find some protection from Nazi thugs. Wallenberg also is properly credited with saving as many as 70,000 lives when he stopped the bombing of the Jewish ghetto in Budapest by boldly threatening a Nazi general.

What makes Raoul Wallenberg's incredible heroism so tragic is the fate he suffered following his extraordinary exploits in Budapest. He was arrested by Soviet military officials on January 17, 1945, and disappeared into the shadowy, half-world of the Gulag. It is the ultimate irony that this man, who did so much for so many, suffered such a fate. That tragedy is further compounded by the uncertainty surrounding the ultimate fate of Raoul Wallenberg. In 1957, the Soviet Government issued an official statement that Wallenberg had died in 1947 from a heart attack. The Russian Government reaffirmed again in 1991 that he had died in 1947, but they provided no additional details or other confirming evidence.

Mr. Speaker, the stamp that is being issued today features a profile portrait of Wallenberg on the telephone. In the background, a group of Holocaust survivors looks over his shoulder. A Schutzpass, the protective passport document which he issued in an effort to save the lives of Jews destined for extermination camps, is shown in the upper left corner. Burt Silverman, the designer of the stamp, is an established artist whose work has appeared on the cover of the New Yorker magazine.

In recognition of his heroism, the U.S. Congress has recognized and honored Raoul Wallenberg on a number of occasions in the past, acknowledging the debt of the United States and all humanity to this great man. In 1981 the Congress enacted and President Reagan signed legislation I introduced making Wallenberg an honorary U.S. citizen. Wallenberg was the second individual after Sir Winston Churchill to be recognized by being made an honorary U.S. citizen.

In 1986 in cooperation with our former colleague Bill Lowery of California, we renamed the section of 15th Street, S.W., where the U.S. Holocaust Memorial Museum is now located, as "Raoul Wallenberg Place." In 1994, the Congress approved legislation to place a bust of Raoul Wallenberg on permanent display in the U.S. Capitol.

Whatever Wallenberg's fate, his heroic achievements remain a shining beacon in the darkest moment of human history. This hero of the Holocaust, whose heroism saved tens of thousands of lives, has achieved international recognition, respect, and admiration. People everywhere remember his courageous deeds in Budapest and the incalculable injustice of his incarceration in the Soviet Union. This recognition today—issuing a United States postage stamp in his honor—is only the latest appropriate tribute to this outstanding human being.

My wife Annette and I owe our lives to Raoul Wallenberg, an authentic hero of the Holocaust. In one of the tragic ironies of history, this man who saved tens of thousands disappeared into the Soviet Gulag. His deeds must never be forgotten. The commemorative Wallenberg stamp will help us remember this beacon of hope that shined in history's darkest moment.

INTRODUCTION OF THE DISASTER RELIEF TAX ACT OF 1997

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. HERGER. Mr. Speaker, today I am introducing the Disaster Relief Tax Act of 1997, a bill which will provide important relief to taxpayers affected by a Presidentially declared disaster.

Earlier this year, California experienced the worst flooding in State history. In the Sacramento Valley, levee failures on the Feather River, the Bear River, and the Sutter Bypass caused extensive flooding of over 80,000 acres in residential and agricultural areas. Nine Californians tragically lost their lives in these floods, and some 120,000 others were displaced from their homes. In total, the floods caused more than $1.6 billion in damage. A full 48 of the State's 56 counties were declared Federal disaster areas, including each of the 10 northern California counties that I represent.

Today, the newspapers are filled with more heart-breaking stories of incredible flooding—this time in North Dakota. We are once again reminded how easily lives and communities can be uprooted by the force of nature.

Unfortunately, for Americans who fall victim to such disasters, the problems they face don't necessarily subside with the waters. Inflexible tax law and undue administrative burdens often cause individuals added grief when dealing with the Internal Revenue Service. In the wake of these recent disasters, it is altogether appropriate that the Federal Government do what it can to help provide relief to these taxpayers.

The Internal Revenue Service, through regulations and other guidance, routinely extends many tax-related deadlines for disaster victims. However, many other deadlines are firmly set by law and the IRS is not permitted to extend them through administrative regulations. My bill will authorize the Secretary of the Treasury to extend these tax deadlines for a period of up to 90 days.

Taxpayer actions covered by this legislation include the filing of tax returns, the payment of taxes, and the filing of petitions with the Tax Court. Additionally, my bill would allow taxpayers to retain eligibility for any credits or refunds during the Secretary's prescribed extension period. All rights associated with this eligibility would also be extended, permitting taxpayers to file appropriate claims for these credits and refunds and to bring suit upon these claims.

Mr. Speaker, this problem of inflexible tax laws was highlighted by a recent IRS news release, dated March 12, 1997. In it, the agency announced that it had extended certain deadlines related to pension plans for taxpayers affected by federally declared disasters. However, it also listed a series of deadlines that the agency could not administratively extend because they are firmly set by law. My bill would grant the IRS the appropriate authority to extend any deadlines faced by taxpayers victimized by such disasters.

Mr. Speaker, this legislation also simplifies the process by which taxpayers establish their disaster losses for tax purposes. Often, as a result of a Presidentially declared disaster, individuals seek Federal loans or Federal loan guarantees to help them rebuild their homes or businesses. To obtain these loans or loan guarantees, taxpayers must have their property damage appraised by the Federal Government. Incredibly, however, these taxpayers may have to obtain an additional appraisal to establish the amount of their losses for tax purposes. I believe that this duplication is an unnecessary burden to impose on taxpayers who have already been victimized by disasters. Taxpayers should be allowed to use appraisals performed or authorized by the Federal Emergency Management Agency, the Small Business Administration, or other Government agencies to calculate their disaster losses. My bill explicitly authorizes the IRS to issue regulations or other guidance implementing this change, and I anticipate that this would be done promptly upon enactment.

Mr. Speaker, I believe that the Internal Revenue Service should have the appropriate authority to do what is fair. The Disaster Relief Tax Act of 1997 does just that. Americans who have already been victimized by floods, earthquakes, hurricanes, or other Presidentially declared disasters should not also be victimized by inflexible tax laws and undue administrative burdens. I urge my colleagues to cosponsor this important and much-needed legislation.

AFRICAN GROWTH AND OPPORTUNITY ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. CRANE. Mr. Speaker, I am pleased to join with so many of my colleagues today in reintroducing legislation intended to open a new era of trade and investment relations between the United States and the countries of Sub-Saharan Africa.

For more than three decades, the United States has supported a variety of foreign assistance programs designed to aid the countries of Sub-Saharan Africa. Unfortunately, traditional foreign aid alone will not lead to the level of economic development that we would all like to see on the African continent. In the long run, private sector investment and development must serve as the catalyst for Sub-Saharan African countries to compete in the global marketplace, to become self-reliant, and to raise the standard of living for their people. At present, however, there is no initiative underway to engage the countries in Sub-Saharan Africa as business partners through trade and investment.

I believe that we have an opportunity in the 105th Congress to fill this major gap in U.S. trade policy and in our relations with the region, which consists of a diverse set of 48 countries, many of which have undergone significant political and economic change in recent years. At this time, more than 30 Sub-Saharan African countries have taken steps, under the guidance of bilateral and multilateral donors such as the World Bank and the International Monetary Fund, to create the necessary environment to attract private sector investment. In addition, more than 25 nations in the region have held democratic elections since 1990.

Given the changes that are taking place in Sub-Saharan Africa, I believe that it is appropriate for us to shift our policy toward the region. In particular, we must reach out to the Sub-Saharan African countries which have instituted programs to put their economies on the right track; we want them to succeed in charting a new course for their future. I also must note the reforms underway in Sub-Saharan Africa present many new trade and investment opportunities for United States exporters and workers, particularly in the area of infrastructure development. The legislation I am introducing today is designed to bring our private sectors together by providing the necessary framework to open a mutually beneficial trade and investment dialogue between the United States and Sub-Saharan African countries.

The legislation being reintroduced today, the African Growth and Opportunity Act, calls for the negotiation of free-trade agreements with countries or regions in Sub-Saharan Africa that are taking appropriate steps to reform their economies. To help give momentum to these negotiations, and to focus greater attention on Sub-Saharan Africa by the United States private sector, the bill calls for the creation of a United States-Sub-Saharan Africa trade and economic cooperation forum. This forum will provide regular opportunities for policy leaders and heads of state to meet to discuss issues of mutual interest and to keep the trade negotiations on track.

In addition, the bill would extend the generalized system of preferences [GSP] program, which provides duty-free access to the United States market to imports of eligible items from developing countries, permanently for Sub-Saharan Africa. It also would allow the President to designate countries in the region as eligible for additional GSP benefits on products currently excluded from coverage by the program. Recognizing that textile and apparel products development could result in immediate job creation in Sub-Saharan Africa that would not

threaten existing jobs in the United States, the bill also states that the administration should continue its "no quota" policy toward the region on these products.

As I again offer this legislation, I would like to take the opportunity to recognize significant contributions made to this initiative by two of my colleagues on the Ways and Means Committee, Congressman CHARLIE RANGEL and Congressman JIM MCDERMOTT, who worked with me throughout the past Congress to build a consensus. To initiate consideration of the issue by the 105th Congress, I have scheduled a hearing on this legislation in the Ways and Means Trade Subcommittee, which I chair, for Tuesday, April 29. I look forward to listening to the testimony that the subcommittee will receive that day and to continuing to work with my colleagues on a bipartisan basis to move this legislation forward.

IN HONOR OF "LET'S CELEBRATE"—MAKING A DIFFERENCE IN THE LIVES OF JERSEY CITY RESIDENTS FOR 15 YEARS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an extraordinary organization, "Let's Celebrate," which is committed to making a difference in the lives of the residents of Jersey City. Let's Celebrate's contributions will be recognized during festivities to be held at Casino in the Park Restaurant in North Bergen on April 25, 1997.

The mission of Let's Celebrate was born in 1981 when a small group of Jersey City clergy formed a coalition to combat hunger and homelessness. Their efforts decreased hunger and homelessness in Jersey City. This led to the incorporation of Let's Celebrate as a nonprofit organization dedicated to moving people from hunger to wholeness, in 1982. Jersey City residents have become the beneficiaries of the enormous commitment and compassion of the visionaries who founded "Let's Celebrate."

The original mission of Let's Celebrate has been greatly expanded over the past 15 years. The first turn in the road toward self-sufficiency, paved by the efforts of this organization, was the Emergency Food Network, a collection of food pantries focused on meeting the emergency food needs of both individuals and families. Within a short period of time, the need for prepared meals became obvious, due to the number of clients served by Let's Celebrate who did not have access to cooking facilities. Thus, The Square Meal Soup Kitchen was established on December 7, 1983, a day which will long be remembered by those who have since passed through their doors. Initially located at St. John's Reform Church on Fairview Avenue, The Square Meal moved to Christ Church United Methodist in Journal Square, where it remained until July 1991 when it then relocated to its original, and current, home at St. John's Reform Church.

Later, Let's Celebrate's goal to reduce hunger expanded to include job training. With a major grant from United Parcel Service, as well as additional financial support from Philip Morris, the Job Power program was born. This training program in the culinary arts has graduated 85 students ready to be productive members of the work force. In 1995 Let's Celebrate instituted the Housing Plus program to assist individuals with special medical needs. This invaluable program enables clients to receive medical case management along with help on housing issues. Another service provided by Let's Celebrate is the G.E.D. program located at the Square Meal Community Center, providing area residents the opportunity pursue a high school diploma.

It is an honor to have such an exceptional organization working in my district benefitting the underprivileged of Jersey City. Let's Celebrate has helped enhance the meaning of community service.

TRIBUTE TO PYRAMID ACADEMY IN MEMPHIS, TN

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. FORD. Mr. Speaker, I rise to praise the achievements of the students, faculty, and the principal of Pyramid Academy in Memphis, TN. Pyramid Academy is an alternative school serving teen mothers and children with behavioral problems. Most of the students at Pyramid come from a world of obstacles and disadvantages. Many of them have been thrown off track by poor choices or a lack of direction.

As its name symbolizes, however, the Pyramid Academy, is giving these young men and women the building blocks they need to rise to the top. The school administrators transformed the way they educate and rehabilitate their students. They moved away from a punitive approach toward a holistic one, focusing on dropout prevention, personal development, responsible parenting, and achievement. Before this transformation, police walked the halls, and in the words of the principal, the school was nothing more than "a holding tank."

Those who doubt or question the power of placing high expectations and standards on our students, need only look to the example set by Pyramid Academy. As evidence, five young ladies from Pyramid Academy won first place in the African-American Knowledge Bowl, sponsored by the Memphis City Schools. I would like to include the names of the Grand Champion Knowledge Bowl team and ask the House of Representatives to join me in honoring their achievements: Meisha Harris, Tamika Williams, Edwina Jefferson, Cortisa Thomas and Alicia Currie. These young women are sources of inspiration for the House of Representatives. They are my heroes. I would also like to include, in the CONGRESSIONAL RECORD, a newspaper article chronicling their achievement.

[From the Commercial Appeal, Apr. 17, 1997]

ALTERNATIVE SCHOOL PROMOTES ACHIEVEMENT

(By Regina L. Burns)

A 25-year Memphis City Schools educator, John White, is finding that expelled and board-suspended students, along with teen parents, can be motivated to achieve using high expectations instead of the police and corporal punishment.

White, principal at Pyramid Academy for seven years, points to his school's recent championship at the sixth annual African-American Knowledge Bowl as proof of his philosophy.

"It just made me feel so good. I was just bubbling up with joy," proclaimed White, 53, who pushed for the alternative school's name change from Comprehensive Pupil Services Educational Center.

The April 7 competition at the National Civil Rights Museum was sponsored by the Memphis City Schools Adolescent Parenting Mental Health Team, said Sherry Hardy, a school social worker in the Adolescent Parenting Program.

"The schools that participated are involved in our Rites of Passage effort," explained Hardy. The Rites of Passage program is designed to help young African-American men and women with development and responsibilities as they move toward adulthood.

Dr. Theresa Okwumabus, supervising psychologist for the Adolescent Parenting Mental Health Team, initiated the Knowledge Bowl and the Rites of Passage program. She said, "The students interacted in a positive way with other children and experienced success in knowing about their culture and their history."

Five students from Pyramid Academy helped bring home the trophy. They are 11th-grader Edwina Jefferson, ninth-grader Alicia Currie, 12th-grader Mlesha Harris, ninth-grader Cortisa Thomas and 11th-grader Tamika Williams. Their teacher is Erma Sanders, a social studies instructor.

The second-place winner is Chickasaw Junior High. Raineshaven Elementary captured third place. Other finalists were Caldwell Elementary, Ida B. Wells Academy and Whitehaven High school, according to Hardy.

"I'm an advocate for having an alternative school in every school. When I came here, this was a holding tank. We changed the name. We got rid of the police. We don't need the police. I think it sends the wrong message," explained White.

He said his school has its share of difficulties but they are minimal. Each morning students and faculty gather at a "daily briefing."

"We reiterate our expectations on a daily basis. We ask any student who feels like rappin', tappin', singing or cursing to come down front. If anyone has had any difficulty, we have someone for them to talk to," he said.

IT'S TIME FOR BILLBOARDS TO PAY THEIR FAIR SHARE

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing the Billboard Fair Share Act, legislation that would levy a 15 percent tax on the revenue from billboards and direct that money to help pay for our transportation system.

The billboard industry benefits as much as any other industry from our National Highway System. In fact, the industry even charges

customers according to the number of cars that pass by the billboard on a given day. Despite its reliance on taxpayer-funded roads, the billboard industry contributes nothing to the construction and maintenance of our Nation's roads. It is time that the billboard industry paid its fair share.

The Billboard Fair Share Act would levy a tax on each billboard of 15 percent of gross revenues generated from the billboard. This is the same amount that billboard companies usually pay a property-owner for the right to construct and maintain the billboard on the property-owner's land. The revenue generated from this tax would be divided between surface transportation and funding for enhancement projects under ISTEA. In both cases, it would be used to improve our national system of roads.

As Congress works to reauthorize ISTEA while balancing the budget, it is important that we ensure that all road users contribute to providing transportation funding. While the billboard industry may not be a traditional road user, it is equally clear that they directly benefit from road construction. In fact, the billboard industry is entirely dependent upon roads.

All highway users must be willing to help build and maintain our Nation's roads. It is time for billboards to pay their fair share.

SUPPORT FUNDING FOR SAN PEDRO CREEK WETLANDS RESTORATION AND FLOOD CONTROL PROJECT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. LANTOS. Mr. Speaker, I rise today in strong support of the President's 1998 budget request for the U.S. Army Corps of Engineers. As you know, the Army Corps of Engineers is responsible for the planning, design, construction, operation, and maintenance of important flood control projects around our Nation. I urge continued support for full funding of the Continuing Authorities Program which will ensure that important flood control projects around our Nation can proceed on schedule. Full funding will also ensure that there will be no delays in construction of projects that have already been started.

Mr. Speaker, I recently presented testimony to the House Appropriations Subcommittee on Energy and Water Development regarding two local issues important to residents of the San Francisco Bay area. I respectfully request that my testimony appear in the RECORD for the benefit of my colleagues in the House.

TESTIMONY OF CONGRESSMAN LANTOS BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

March 31, 1997

Mr. Chairman, I appreciate the opportunity to present testimony to your Subcommittee as you begin to consider the Energy and Water appropriations bill for fiscal year 1998. We in Congress face difficult challenges and painful choices as we work to reduce the federal budget deficit. I applaud your record in this area and you can count on my continued support of serious efforts to cut wasteful spending. I am delighted to present information regarding two projects important to my community which fall under your Subcommittee's jurisdiction and to urge your continued support for these significant projects.

As you know, the Congressional district that I represent is geographically unique and diverse. My Congressional district comprises the San Francisco Peninsula which is home to the residents of the City of San Francisco and northern and central San Mateo County. The Peninsula is flanked by the Pacific Ocean to the West and by the San Francisco Bay to the east. Steep coastal mountains run up the middle of the Peninsula.

To the east of these mountains are the densely populated cities of San Mateo County which are located along the San Francisco Bay. The Bay front itself consists of the San Francisco International Airport, Candlestick Park, light industry, salt flats and the Port of Redwood City. Residential neighborhoods and commercial areas lie between the Bay front and the mountain ridges. To the west of the mountains, which follow the San Andreas fault, are the coastal communities of San Mateo County, including Pacifica, which lie on the Pacific Ocean.

The City of Pacifica is located a few miles south of the City of San Francisco. It is surrounded by the Central Coast Ranges and by the Pacific Ocean. City limits include three ridge systems and their adjacent valleys and hillsides, set against a coastline of beaches and rugged headlands. San Pedro Creek has the largest drainage area and flows four miles through the narrow San Pedro Valley and the Linda Mar District to the Pacific Ocean. Linda Mar is the most populous of several seaside communities in Pacifica. This area has experienced numerous floods in recent history with flood damage occurring mostly in the lowest reaches of the creek.

San Pedro Creek has historically flooded on a 10-year cycle. The mountains and hills around San Pedro Valley are steep and rainfall and runoff can be rapid and intense. Currently, the lower reaches of the San Pedro Creek channel can contain within its banks, at maximum, an 8- to 10-year runoff event. The last major flooding occurred there in 1982 when more than 300 homes were flooded and more than $5 million of damage occurred.

The City of Pacifica has been working closely with the US Army Corps of Engineers for more than 15 years in developing a flood control project to provide 100 year flood control protection in the Linda Mar Valley. A number of plans were originally proposed, but were stalled due to lack of funding and environmental concerns. Two alternative projects were considered as possible solutions to the flood problem. However, due to environmental concerns and prohibitive mitigation requirements associated with either alternative, a third alternative was developed by the City and residents in the community. This alternative would consist of a diversion structure, an underground bypass channel, a floodwall, and the creation of a wetland-flood basin.

The City and the Corps now propose to restore the tidally-influenced, freshwater wetlands associated with the lower reach of San Pedro Creek to provide flood control in the Linda Mar District of Pacifica. The restoration design as proposed will restore 10.1 acres of one of the rarest wetland types on the Pacific coast of North America. The project will also enhance a significant fisheries resource, i.e., a steelhead (Oncorhynchus mykiss) run, and restore wildlife habitats for migratory waterfowl and other associated wildlife.

Mr. Chairman, the San Pedro Creek Wetlands Restoration and Flood Control Project is truly a local and federal government partnership model. As of March 1997, the federal government has invested over $600,000 toward the development of a solution to flooding problems in the Linda Mar district of the City of Pacifica. The City of Pacifica has contributed $537,000. These funds have been used to complete the planning phases of study for the proposed project. In order to complete the project, a final design phase will be required. This will be followed by acquisition of real estate by the City and construction of the project. The City plans to invest $13 million in real estate acquisition and $475,000 in design and construction. The Federal contribution for design and construction is estimated to be only $4.425 million.

Mr. Chairman, I would like to provide you with an update on the future actions that are necessary to complete this very important and much-needed flood control project. The technical analysis is essentially complete for the San Pedro Creek flood Control feasibility study. Completion of the Environmental impact Statement Report (EIS/R) and main report is contingent upon receipt of the US Fish and Wildlife Service biological opinion regarding the potential impact on the recently listed California red-legged frog. Recent communications with the Fish and Wildlife Service indicated no significant changes to the proposed design will be required. The Feasibility Study and EIS/R is expected to be completed in Spring 1997. It is expected that the initial plans and specifications will be completed in the Summer of 1997. Construction is expected to commence in FY 1998.

Mr. Chairman, during the recent series of devastating storms and floods in the West and in California this winter, residents in Linda Mar received alarming warning notices from the City of Pacifica urging them to prepare to evacuate their homes. Fortunately, residents were spared the heaviest and most devastating rains of these storms and San Pedro Creek did not flood. History tells us, however, that it is only a matter of time until the next flood. It is imperative that we provide funding for flood control before the next significant flood. I urge the full funding of the San Pedro Creek Wetlands Restoration and Flood Control Project.

Mr. Chairman, I would like to address another project in my region over which your Subcommittee has jurisdiction. Although the Port of Redwood City is no longer in my Congressional district (due to redistricting in 1992), the continued success of the Port nonetheless does have an impact on the economy of the region.

As you know, due to the shallow nature of San Francisco Bay, maintenance dredging of the Bay is necessary to ensure safe navigation of ocean-going ships. The Port of Redwood City currently has an authorized depth of 30 feet. It is currently on a 3-year dredging cycle to maintain this authorized depth. The most recent maintenance dredging of Redwood City Harbor was completed in September 1996 to 30 feet. The next maintenance dredging is scheduled for March 1999.

There is concern that the new, larger vessels which call on the Port require more than 30 feet of draft. These vessels are forced to light load and top off at other ports—significantly adding to the cost of calling on

the Port. There is concern that this will significantly reduce the commercial viability of the Port. I urge you to support a reconnaissance study to determine the federal interests, costs, benefits and environmental impacts of deepening Redwood City Harbor.

Thank you, Mr. Chairman, for your support and for the opportunity to provide you with information concerning these important projects.

IN HONOR OF LA TRIBUNA NEWSPAPER: CELEBRATING 35 YEARS OF DEDICATED SERVICE TO NEW JERSEY'S HISPANIC COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize a truly special occasion, the 35th anniversary of La Tribuna newspaper. This momentous event in my State's journalism community will be recognized at a gala banquet to be held Friday, April 25, 1997, at the Fiesta Restaurant in Wood-Ridge, NJ.

In 1962, large numbers of Hispanic immigrants began relocating to New Jersey. At that time, few newspapers were being published in their native language. La Tribuna was one of the first news sources committed to keeping the Spanish-speaking community in touch with its government and the rest of the world.

For 35 years, La Tribuna has shone light on daily events affecting the Hispanic community. Part of the foundation of the U.S. Constitution is freedom of the press. La Tribuna brings this ideal to life for the Hispanic community on a weekly basis through the paper's commitment to truth and fairness. Whenever and wherever news happens, La Tribuna is at the forefront of articulating events in a concise, no-nonsense manner.

Under the direction of publisher and editor Ruth Molenaar, La Tribuna has grown to be a well-respected member of New Jersey's news community. The people of my district, and New Jersey are fortunate to have Ms. Molenaar and her staff, including Lionel Rodriguez, providing fair and accurate news coverage. They have been a reliable voice for the Hispanic community for almost two generations.

It is an honor to have La Tribuna operating in my district. Its efforts have helped our Nation's Hispanic community to blossom and flourish. I ask that my colleagues join me in applauding this remarkable organization for all it has done for the Hispanic community.

TRIBUTE TO DAVID BROWN

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to honor David Brown who this week was named Citizen of the Year by the Las Virgenes Homeowners Association. Mr. Brown has been an outspoken advocate in our community for 25 years, and recognition of his good work is long overdue.

Mr. Brown has used his multitude of talents to work in areas as diverse as teaching, writing, publishing, and as a planning commissioner and citizen activist. Fortunately, he has seen fit to use his talents for the greater good of our local community. Dave brings to his work a rare blend of expertise and a tireless spirit of volunteerism. Although he has given freely of his time and resources to many worthy causes, his top priority has always been protection of the Santa Monica Mountains.

His dedication to protect the Santa Monicas is unparalleled. He has played various roles in his effort to protect the mountains, from serving on the Santa Monica Mountains Comprehensive Planning Commission Advisory Committee, the Sierra Club's Santa Monica Mountains Task Force, and the Santa Monica Mountains Trails Council Board. Dave has done extensive work on monthly newsletters which served to defend the mountains from over development.

Mr. Brown has indeed been a lifelong steward of the Santa Monica Mountains, ensuring that this natural sanctuary will be available for generations to come.

HELP CLEAN UP OUR HIGHWAYS

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing the Visual Pollution Reduction Act, legislation that would reduce the clutter of billboards along our Nation's roads and highways.

Today, Scenic America released a report entitled "The Highway Beautification Act—A Broken Law." The report detailed how, despite the Highway Beautification Act, the number of billboards along our Nation's highways has continued to grow. Each year 5,000 to 15,000 additional billboards are built. Billboards that do not conform to States and local zoning ordinances continue to clutter our Nation's roads. In addition, State highway departments subsidize the billboard industry by operating permitting programs that lose money and use taxpayer funds to cut down trees to improve billboard visibility.

Billboards destroy the scenic beauty of our countryside and the architectural beauty of our inner cities. Billboards sell liquor and cigarettes to our Nation's children, especially in inner-city neighborhoods and poor communities. Billboards are visual pollution.

For this reason, I am introducing the Visual Pollution Reduction Act. This bill would prohibit new billboards in unzoned, rural areas. It would place a cap, at the current level, on the total number of billboards permitted in a State. And, it would prohibit States from removing trees and other vegetation to make a billboard more visible.

The Highway Beautification Act is broken. We must fix it. I hope that Congress will do the right thing and pass the Visual Pollution Reduction Act. America's highways would be visibly improved.

WEST CHESTER UNIVERSITY'S 125TH ANNIVERSARY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. WELDON of Pennsylvania. Mr. Speaker, I would like to take this opportunity to salute my alma mater, West Chester University, on the occasion of its 125th anniversary. On September 25, 1871, Principal Ezekiel Cook welcomed the first class of students to West Chester University, then known as the West Chester Normal School. Since that first year when the Normal School was made up of only 156 students, the principal, and 11 faculty members, West Chester University has blossomed and expanded as a provider of quality education for today's young people.

Today, more than 10,000 undergraduate students and nearly 2,000 graduate students are enrolled at West Chester University, receiving an affordable quality education. In fact, West Chester University is now the second largest of the institutions that make up Pennsylvania's State system of higher education.

The university offers these students a wide variety of educational opportunities, including degrees in the arts and sciences, teacher training and certification, continuing education classes for adults, and advance study in medicine, law, and education. In fact, I am so convinced of the superior educational offerings of my alma mater that I didn't hesitate when two of my three daughters told me that they wanted to attend West Chester University.

Mr. Speaker, I am proud to be a graduate of this fine institution. I am confident West Chester University will continue to bring a high-quality education experience to the community as well as the entire Delaware Valley. I know my colleagues join me in congratulating West Chester University on 125 years of excellence in education.

IN THE HONOR OF THE 75TH ANNIVERSARY OF THE KIWANIS CLUB OF NORTH HUDSON, INC.

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a truly altruistic organization, the Kiwanis Club of North Hudson, Inc., as it celebrates the 75th anniversary of its charter which was signed on March 1, 1922. This milestone in the history of the North Hudson, New Jersey area will be remembered at a gathering on April 26, 1997 at Louis Restaurant in Union City.

Kiwanis Clubs throughout the United States have a long history of service to their communities. The Kiwanis Club of North Hudson is certainly no exception. Over the past 75 years, the men and women of this organization have endeavored to make the lives of area residents a little brighter through their selfless dedication to those in need. Their commitment to excellence was cemented with the dedication of Kiwanis Plaza on September 27, 1994, located on Bergenline Avenue in Union City.

The Kiwanis Club of North Hudson has made a profound impact on the lives of community members fortunate enough to have benefited from its charitable endeavors. Municipalities throughout the area have seen their residents obtain scholarships and other financial assistance through funds raised by the devoted members of this group. The kind efforts of Kiwanis Club members will long be remembered.

The diamond anniversary of the Kiwanis Club of North Hudson celebrates the extraordinary contributions of the club's living past presidents. A roll of presidents will take place, where all members will be honored for their unique contributions to the history of this exemplary organization.

It is an honor to have a notable organization such as the Kiwanis Club of North Hudson serving the residents of my district. It is a shining example of community service at its best.

DEDICATION OF HERMAN TALMADGE HIGHWAY

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. COLLINS. Mr. Speaker, I rise today to pay homage to a former distinguished member of the U.S. Congress. I speak of Herman Eugene Talmadge, U.S. Senator from the State of Georgia, former chairman of the Senate Agriculture Committee and vice chairman of the Senate Finance Committee. On Wednesday, April 23, 1997, I had the honor of delivering the keynote address at the dedication of the Herman Talmadge Highway in Hampton, GA. I wish to enter those remarks into the CONGRESSIONAL RECORD in honor of Senator Herman Talmadge.

U.S. REPRESENTATIVE MAC COLLINS, ON THE DEDICATION OF HERMAN TALMADGE HIGHWAY, HAMPTON, GA, APRIL 23, 1997

It is not only a privilege but a pleasure to be here today with so many of Georgia's past and present leaders to honor a special man. I want to extend a special thank you to Agriculture Commissioner Tommy Irving for acting as our Master of Ceremonies today and also to my good friend Rogers Wade who was responsible for organizing this wonderful event. As many of you know, Rogers was the Chief-of-Staff to our honoree for many years. Rogers took the lessons he learned from him to become one of Georgia's premier governmental specialists.

I also want to recognize my friend Wayne Shackleford. His leadership as Commissioner of Transportation has given Georgia one of the best highway systems in the nation. And last, but certainly not least, I know all of you will join with me in thanking the Honorable Zell Miller, Governor of the Great State of Georgia, for the outstanding job he has done over the past six years.

Governor, the legacy you will leave includes a state that is recognized as a leader in helping people move from welfare rolls to payrolls; a state that provides a better education for our children; and a state that is responsible and accountable to its citizens. For this, we owe you our gratitude.

I know that you, as well as everyone here today, has admired the man we are here to honor. His distinguished career has included serving his nation as a Naval officer during World War II, as Governor, and a United States Senator. The Honorable Herman Talmadge, a son of Georgia. While Herman Talmadge rose to great heights in our nation's government, he never forgot where he came from or whom he represented.

Herman Talmadge has always been the champion of rural America. During his long career as a public servant, he stood for every American who has farmed an acre of land or run the family-owned business found in small towns across rural America. He worked for all Americans who worked with their hands and their backs to earn an honest living and provide a home for their families.

Herman Talmadge knows these people. But more importantly, he genuinely cares for them. He was born and raised in rural McRae, Georgia, where the majority of people made their living by farming, or operating or working for small businesses located around the town square. He lived what many people only talk about today—family values, love of God and Country, community service, and the pride and rewards of work.

His love of politics and the desire to help the people came naturally. His father, Gene Talmadge, was elected Governor of Georgia four times. Following his graduation from the University of Georgia School of Law, a young Herman Talmadge was tapped to run his father's campaign for the United States Senate. Gene Talmadge lost to the incumbent Senator but went on to win his third term as Governor two years later. And his son was right there with him. Herman Talmadge gained valuable hands-on experience and state-wide contacts that would serve him well in the years to come.

Following the campaign, he joined the United States Naval Reserve and was commissioned an ensign. During World War II, his bravery and courage were demonstrated time and again as he requested transfer from state-side duty to the Pacific theater. There, he took part in the invasion of Guadalcanal, the battle of Okinawa and other encounters with the Japanese Fleet. On V–J Day, Lieutenant Commander Herman Talmadge entered Tokyo Bay with the U.S. Navy forces.

After the war, he returned home and managed his father's last campaign. In 1946, the Honorable Gene Talmadge was elected to his fourth term as Governor of Georgia. But prior to taking office, the Governor-elect passed away. The vacancy left by the death of Gene Talmadge resulted in what can only be called an "interesting" political situation in Georgia. Herman Talmadge was elected by the Georgia House of Representatives to fill the term won by his father. But the incumbent Governor and just-elected Lieutenant Governor also claimed the chief Executive's office. Eventually, the State Supreme Court ruled in favor of the Lieutenant Governor.

In 1948, Herman Talmadge left the shadow of his famous father and launched his own political career by running for the office his father had won four times. He campaigned on issues that were the hallmarks of his career in the Governor's office and the United States Senate. When he won, he carried through on his promises to help the rural areas of Georgia.

As the nation's then youngest Governor, Herman Talmadge launched a campaign to modernize his state. He built roads and bridges to link the vast stretches of rural Georgia. He built hospitals in rural areas where there were none before. These facilities brought health care to an entire class of people who had little or no access to medical care. The new Governor deeply believed in education. He built new schools for our children and dedicated a portion of the sales tax to increasing teacher salaries.

But no matter what projects Gov. Herman Talmadge built or what programs he implemented, he did so only if the State of Georgia could afford them and pay for them. He was a deficit hawk long before that term became popular.

In 1956, he won a seat in the United States Senate where he continued his work—only now it was for all Americans. As Chairman of the Senate Agriculture, Forestry and Nutrition Committee, Senator Talmadge was responsible for the passage of many laws that revitalized rural America and greatly improved the quality of life for all our citizens. As his former Senate colleague, Robert Byrd of West Virginia, so eloquently stated in 1980, the legislation crafted by Herman Talmadge is the "blueprint for the entire structure of our agricultural, rural development and nutrition policies."

Senator Talmadge believed that no child or adult should go hungry in a country that produces enough food to feed the world. But he saw poverty and hunger in many areas of our nation. He saw men and women, parents and families fighting to make a living in rural areas that were losing population and business to the cities. He also saw that same hunger and poverty in the faces of those who had migrated to the cities to try and better their lives and the lives of their families.

To combat this tragedy, Senator Talmadge authored legislation to ensure no American would go hungry. He wrote the law establishing the school lunch program. He helped to develop the food stamp program for needy individuals and families. At their inception, Senator Talmadge ensured these programs would help those who needed the help. He also believed that these programs should help those who helped themselves. Herman Talmadge was raised with a strong work ethic and he supported provisions to the law that able-bodied people should work for these benefits. Senator Talmadge did not want federal assistance to become a way of life for any American.

Senator Talmadge created an Agriculture Subcommittee to focus on the problems and opportunities of rural America. Through his leadership, Congress passed legislation that provided low interest loans to local governments for sewers, water treatment plants and health facilities. He also worked to pass legislation providing industrial development loans to local governments which they used as "seed" money to attract industrial projects to rural areas. I would like everyone here to note the fact that these programs were not federal "give-aways." The money provided to local governments and rural communities was paid back to the federal treasury—with interest.

As I have pointed out, Senator Talmadge has always been a guardian of the people's money. As a member of the powerful Senate Finance Committee, he supported legislation to eliminate fraud and abuse in the Federal Medicare and Medicaid programs. Senator Talmadge saw early on the potential costs of these programs to American taxpayers and worked to bring accountability to them.

I think it is appropriate we note that Senator Talmadge firmly believed that the federal government, like its state counterparts, should balance its budget every year. He supported a 1973 Constitutional amendment to prohibit the federal government from spending more than it took in—except in a Congressionally declared national emergency. In

1976, Senator Talmadge introduced a resolution calling for a balanced budget. He said that continued unrestricted spending would bring the nation to bankruptcy.

If Congress had heeded the wisdom of Senator Talmadge and acted upon his budget proposals, America's government and economy would be more financially secure. We who serve in Congress today, are working to enact the legislation proposed by Herman Talmadge over twenty years ago. We are working to balance the federal budget. We are working to save Medicare and Medicaid from the fraud and abuse that drains its precious financial resources. We are working to see that our children and grandchildren can grow up in an America that allows them to achieve their dreams.

Senator Herman Talmadge was a giant among giants in the United States Senate. He counseled Presidents and world leaders. He crafted and helped to pass legislation that has enhanced and enriched the lives of all Americans. And let none of us forget, Herman Talmadge and his colleagues also made our country strong in the face of communist aggression. Their courage in facing that threat allowed the United States to finally win the cold war and make our world a safer place to live.

For three decades, Herman Talmadge served Georgia and America. But he not only served, he led. That is the mark of a great public servant. And while Herman Talmadge achieved great power and success, he tempered it with grace, wisdom, compassion and a love for the people who elected him to high office.

We all owe Senator Talmadge our appreciation and our gratitude for dedicating his life to public service. He touched the lives of every Georgian and millions of Americans. He is truly a special man and he is very special to me. Thank you and God Bless you Senator.

THE WORKERS MEMORIAL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. VISCLOSKY. Mr. Speaker, tomorrow, April 25, 1997, the officers and delegates of the Northwest Indiana Federation of Labor, AFL–CIO, will hold their 23d Annual Labor Awards and Community Service Banquet at the Knights of Columbus Hall in East Chicago, IN. This event honors those individuals who have provided outstanding service to labor and the community. It also serves as the Federation's "Workers Memorial", activity recognizing those who have been seriously injured or killed in the workplace. This event is northwest Indiana's largest labor celebration of the year, involving 45,000 member unionists and their friends. Participants will gather together to celebrate an evening of labor solidarity.

The Federation's highest honor, the 16th Annual President's Award, will be bestowed upon the Honorable Robert A. Pastrick, mayor of the city of East Chicago. This honor is awarded to an individual enhancing the well being of workers throughout northwest Indiana by countless contributions which have furthered the philosophy of the labor movement. In addition, Mr. John Buncich, Lake County sheriff, will be this year's recipient of the annual Service to Labor Award. This award is presented in honor of an individual's dedicated service and support to the labor movement. The Federation's Community Services Award will be presented to Mr. Ed Hiatt for offering both organized labor and the people of northwest Indiana dedicated leadership, compassion and service. Mr. Hiatt assisted with various Federation of Labor projects, including union counseling and the AFL–CIO Christmas Drive.

In addition, two members of the Steelworkers Organization of Active Retirees [SOAR], Mr. John Mayerik, age 89, and Mr. Walter Mackerel, age 96, will be honored with the "Old Warrior" Award. This award is presented in recognition of the recipients' lifelong commitment to the labor movement and the principles which it embodies. Specifically, Mr. Mayerik served as president of Local Union 1014 and staff representative of the United Steelworkers of America. Presently, he is serving as trustee of SOAR Chapter 7–31–14. Mr. Mackerel actively served Local Union 1066, and he was instrumental in establishing and leading the retiree organization in District 7 of the United Steelworkers of America. Both gentlemen have unselfishly devoted their time and effort to assisting both individuals and the communities in which they live for a number of years.

Also, the Federation's Union Label Award will be presented to the United Steelworkers of America, District 7. District 7 will be awarded this honor for demonstrating the true meaning of labor "solidarity" during the Bridgestone Firestone labor struggle. USWA, District 7 has been attributed with providing the leadership and commitment needed to win this fight for labor, as well as revitalizing the entire labor movement in northwest Indiana.

Each year, the Lake and Porter County area United Ways join with the Northwest Indiana Federation of Labor, AFL–CIO, to conduct an 8-week basic union counselor training course. Upon completion of this program, those participating will be qualified to provide the labor community with invaluable information concerning available health and human services assistance. This year's counselor course participants will each receive a certificate of achievement at the awards banquet. They include: Jack Atwood, James Dilbeck, and Bruce Foreman from UAW #2335; William J. Brady and John F. Martinez from Carpenters #1005; David Brock and Andrew Cummins from Boilermakers #524; Duke Deflorio and Mike Winarski from Carpenters #599; James Dilbeck and Bruce Foreman from UAW #2335; Denise Drake, Lillian Garth, and Linda Shedrow from Consumer Credit C.S.; Hilario G. Gonzalez from USWA #1010; Jon L. Iglar and Herbertine Peck from AFSCME #1448; Jack Joyce, Robert Milsap, and Lon C. Powe from USWA #1014; Andrew J. Kremke and Joaquin Lopez from Teamsters #142; Lee Lynk, UAW 3235; Jessica Morris, Community Representative; Thomas Parker from USWA #1066; and Isacc R. Rosado from USWA #2281.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending all of the award recipients chosen by the Northwest Indiana Federation of Labor, AFL–CIO, for their contributions to the labor movement. Their devotion to this cause has made America work.

INTRODUCTION OF TWO MAJOR EDUCATION BILLS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. CLAY. Mr. Speaker, today I am introducing two major education bills that address both elementary and secondary, and higher education.

Last week I cosponsored President Clinton's Hope Scholarship proposal because I support the President's commitment to help parents finance their kids' education. Admittedly, I have concerns that the President's plan does not provide enough assistance for low-income families.

My view is that the most fair and effective way to improve college access and affordability for low-income families is through strengthening the Pell Grant program. That is why today I will introduce the College Access and Affordability Act of 1997.

As the chart to my immediate right illustrates, the value of Pell Grants has substantially decreased in recent years. In current dollars, the value of the maximum Pell Grant was over $4,000. Sadly, it is only $2,700 today. Our bill increases the maximum Pell Grant through mandatory spending to $3,300 for fiscal year 1998, and $300 a year thereafter, through fiscal year 2002. The net effect of the fiscal year 1998 increase would be that 3.6 million additional students would receive an increase of up to $600, and an additional 215,000 families would become newly eligible for Pell.

My bill contains a number of other very important features including elimination of student loan origination fees, loan forgiveness for students who take teaching jobs in low-income public schools, and extension of special rules afforded historically black colleges and universities with regard to participation in student loan programs, and also included in here is a change to the Pell needs analysis that will help older, independent students and students working their way through college.

My second proposal addresses the growing movement in local communities to recognize that some of our public schools need renewal. Those pushing vouchers are capitalizing on growing parental anxiety about their children's education. As a supporter of public schools, I am not content with just saying no to vouchers. Therefore, the second bill I will introduce today is the Public Schools Renewal and Improvement Act of 1997. Here are some of its key features: A local consortium, composed of the local educational agency and a group of parents, students, representatives of teachers and school employees, community and business leaders and others, may submit a request to the President for a declaration that a major public schools renewal effort is underway in that community.

As part of its request, the consortium must prepare and submit a 3-year locally inspired public schools renewal plan that spells out

specific details concerning the consortium's commitment to public school renewal in such areas as parental involvement, training of teachers, administrators and counselors, technology enhancements, school and classroom safety, and truancy and drop-out prevention.

The President, along with the Secretary of Education, may approve the consortium's request for assistance and may direct various types of Federal assistance, including not just dollars, but also equipment, infrastructure improvements, et cetera.

My bill is a 3-year effort and I am requesting $750 million for the first and second years. I intend to pursue passage of both bills at every opportunity, including work on the budget and higher education reauthorization.

THE COLLEGE ACCESS AND AFFORDABILITY ACT OF 1997 BILL SUMMARY

Increases Pell Grants. The bill increases the maximum Pell Grant through mandatory spending to $3,300 for FY 1998, and $300 a year thereafter through FY 2002. The FY 98 increase would make over 3.6 million students eligible to receive an increase of up to $600 and make an additional 215,000 families newly eligible for Pell grants.

The value of Pell grants has substantially decreased in recent years as appropriation levels have lagged behind increases in college costs and authorization levels. Ten years ago, Pell grants covered an average of 55 percent of a student's college costs at a public university. Today, it covers less than 40 percent. The bill will greatly enhance access and affordability to millions of low income students pursuing higher education.

Eliminates Student Fees. Student origination fees are reduced from 3 percent to 2 percent on July 1, 1998; to 1 percent in 2000; to zero after January 1, 2002. The current 1 percent insurance premium is eliminated on July 1, 1998. These savings will provide significant benefits to all students, and will provide additional funds to borrowers up front, at the time the loan funds are needed to pay for the cost of attendance.

Provides Loan Forgiveness for New Teachers. The bill allows new teachers in Title 1 school with a high concentration of poor students (30 percent) to have their Direct or FFEL loans forgiven. Eligible teachers would have 15 percent of their loans forgiven in the first and second years of teaching; 20 percent in the third and fourth year; and 30 percent in the fifth year. The amount of the loan forgiveness is not considered "income" for purposes of the Internal Revenue Code.

Helps Older, Independent Students and Dependent Students. The bill proposes substantial improvements in the way financial need is established for disadvantaged independent students who do not have dependents other than a spouse. The bill increases the living offset (the amount of income allotted for the student's living expenses) for single students (and married students if both are enrolled in college) from $3,000 to $6,000, and $9,000 for married students where one is enrolled. The allowance is adjusted for inflation in future years. The bill also increases the dependent student earning allowance from the current level of $1,750 to $4,200. The current earning allowance is too low and is a disincentive to student employment. The change helps a category of low income students who were adversely affected by the 1992 higher education reauthorization.

Protects Historically Black Colleges and Universities. The bill extends the date (to October 1, 2002) that HBCU's with high default rates are exempted from disqualification in student loan programs. Without the exception, the Department's default prevention policies will have an adverse effect upon 4 year colleges and universities which serve large percentages of minority students.

Reduces Interest Rates for Unsubsidized Loans. The bill reduces the applicable interest rate on all subsidized and unsubsidized FFEL and Direct Loans during in-school, grace, and deferment periods to the same rate as the Department of Education's own borrowing rate, although the interest rates would be capped at the same levels as current law. The change will reduce Federal costs by reducing excess profits to lenders during times when there are few servicing costs associated with subsidized loans, but the highest profit margins.

Guaranty Agencies and Lenders. The bill proposes a number of changes to the FFEL guaranty agency system in recognition that these State and private nonprofit entities are not the ultimate guarantors of FFEL and act only as administrative agents of the Federal government. Because the Federal government is the sole insurer of FFEL loans, the Secretary would undertake the obligation to pay lenders directly using his agents and recall guaranty agency reserves over the next five years, saving some $2.5 billion.

To address structural deficiencies that hamper default prevention activities, guaranty agencies would be authorized to retain no more than 18.5 percent of default collections—comparable to the Department's cost of collections. To further encourage default prevention, lender risk-sharing would be increased from 2 percent to 5 percent.

Direct Lending and FFEL Loan Provisions. The bill allows FFEL borrowers to have the same extended and graduated repayment options currently available only to Direct Loan borrowers. The bill also makes a number of changes that make FFEL consolidation loans more comparable to Direct consolidation loans, thus reducing cost for, and providing greater flexibility to, FFEL borrowers.

PUBLIC SCHOOLS RENEWAL AND IMPROVEMENT ACT

SECTION-BY-SECTION SUMMARY

Sec. 1. Short Title.

Cites the bill as the "Public Schools Renewal and Improvement Act of 1997."

Sec. 2. Findings and Purposes.

Findings—Sets forth a number of Congressional findings, among them:

The fact that many of our nation's public schools need assistance and resources to achieve immediate reform.

Ongoing reform of underachieving schools demonstrates the promise of public school reform when parents, students, teachers, school administrators and business and community leaders join forces.

The Federal government should encourage locally-based, public school reform efforts.

Purpose—The purpose of the bill is to assist local communities that have taken the initiative to renew their public school systems.

Sec. 3. Definitions.

Defines "local schools consortium" to mean the LEA and a group of other stakeholders, including parents, teachers, students, and community and business leaders.

Defines other relevant items.

Sec. 4. Procedure for Assistance Declaration.

A local school's consortium may submit a request to the President seeking Federal aid (dollars and other resources) to complement indigenous 3-year public school reform plans. The plan is submitted through the State's Governor, who must pass the request along to the President within 30 days. The Governor may or may not choose to comment on the request.

The President shall review the request, in consultation with the Secretary of Education. If the President is satisfied that the request meets the requirements and conditions spelled out in the legislation, the President may declare that "a major education renewal effort if underway" in that LEA, and authorize and coordinate a range of Federal assistance. Requires the consortium to submit annual updates and progress reports.

Sec. 5. Plan.

A major component of the request for assistance is a locally-developed public schools renewal plan that must:

(1) Spell out the "adverse conditions" confronting that community's public schools, which conditions must constitute one of the following:

A substantial number of students have been failing to meet certain national or state benchmarks in basic skills.

The schools have severe overcrowding or physical plant conditions that threaten health and safety.

There are substantial shortages in certified teachers, training opportunities and instructional materials.

Schools are located in areas where crime is so prevalent that student achievement suffers.

(2) Provide a host of "assurances" concerning the commitment of the consortium to genuine public school reform, including:

That the consortium developed the plan after extensive consultation with state education officials, teachers, parents, business and community leaders and other public education stakeholders.

That improved parental involvement in the public schools will be addressed.

That there will be regular, objective evaluation of the plan.

That use of funds and other resources provided under the plan will be prioritized to address overcrowding and school infrastructure problems, improved teacher certification and training, readiness for technology, and health and safety concerns.

That the State or local government will match Federal resources (unless the President waives matching requirements).

That funds received will supplement, not supplant, other Federal and non-Federal resources.

Sec. 6. Federal Assistance.

The President may authorize the Department of Education and other Federal agencies to provide personnel, educational equipment and facilities, and other services to an LEA to which the President has made the requisite declaration.

The Secretary of Education may be directed by the President to distribute money and other resources to selected LEAs. The Secretary is required to determine the best way to distribute funds through personnel and procedures applicable to existing Federal elementary and secondary education programs.

General Education Provisions Act (GEPA) provision apply.

Sec. 7. Use of Assistance—Allowable Reforms.

Broadly spells out the kinds of reforms the plan must address in order to receive a Presidential stamp of approval.

School-based reforms—including increased early childhood education, comprehensive

parent training, intensive truancy prevention programs, new and alternative schools for dropouts, and enhanced special needs assistance (e.g. ESL students and students with disabilities).

Classroom focused development—including teacher and principal training academies, recruitment programs at area colleges and universities, stronger links between local law enforcement, schools, and parents, and teacher-mentor programs.

Accountability reforms—including higher learning standards and meaningful assessments, monitoring schools and determining how to more effectively employ resources, and promotion and graduation requirements (particularly in the basics).

Sec. 8. Duration of Assistance.

Provides that assistance is available for FY 1998–2000.

Sec. 9. Report.

Requires the Secretary of Education to submit a report to relevant committees of Congress regarding progress under the Act.

Sec. 10. Authorization of Appropriations.

Authorizes $250 million for FY 1998, $500 million for FY 1999, and "such sums" for FY 2000.

Grants the Secretary of Education regulatory authority to determine matching requirements for non-monetary Federal resources.

Grants the Secretary waiver authority with regard to matching requirements.

TRIBUTE TO NATIONAL COMMUNITY THEATER WEEK

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. BROWN of California. Mr. Speaker, I rise today to bring National Community Theater Week, which is being celebrated April 19 to 26, to the attention of my colleagues.

The year 1997 marks the second annual National Community Theater Week. This very special celebration, sponsored by the American Association of Community Theater [AACT] in cooperation with Stage Directions magazine, is being held to recognize the contributions of countless volunteers in thousands of community theaters across the country.

Local events are the core of National Community Theater Week because they bring the most recognition to the performing arts. For this reason, Mr. Speaker, I want to express my sincere appreciation to the staff and volunteers of the Bilingual Center for the Performing Arts for their contributions to the Inland Empire. Without their effort and work, performing arts programs would be affordable to only the wealthy in their community.

Arts and culture are a vital part of human existence and the opportunity to enjoy and appreciate the arts should be open to all of our citizens. As a member of AACT, the Bilingual Center for the Performing Arts strives to raise the level of public consciousness and the value and importance of performing arts to the people of the Inland Empire.

Mr. Speaker, I ask my colleagues to join me in recognizing the hard work that performing artists, not only in the Inland Empire, but across the country have put into National Community Theater Week. Let us help them celebrate the contributions performing arts provide to our society. Congratulations and best wishes to all for a most successful week and a most successful year of performing arts.

SWEATSHOP WORKERS SHOULD NOT BRING DAUGHTERS TO WORK

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Ms. VELÁZQUEZ. Mr. Speaker, today across the country parents took their daughters to work. There is one group of workers, however, that does not celebrate taking their young children to work. I bring to your attention this article that appeared in the New York Times. The article reminds us that sweatshops and child labor are a reality in our country.

Let us give our daughters positive goals to strive for. At the same time, though, let us work together to fight sweatshops and child exploitation.

[From the New York Times, Apr. 23, 1997]

TAKE DAUGHTERS TO WORK? UNION OFFERS ANOTHER IDEA

(By Steven Greenhouse)

Upset that so many New York garment factories still use child labor, the nation's largest clothing union has come up with a novel approach to combat this longstanding problem—it is called Don't Bring Our Daughters to Work Day.

While the union says it applauds the American parents who will take their daughters to work tomorrow to excite them about potential careers, the garment union will spend the day telling thousands of garment workers, many of them struggling immigrants from China, not to take their daughters to work tomorrow, or any other day for that matter.

The campaign seeks to draw attention to the sweatshop conditions by capitalizing on the growing prominence of Take Our Daughters to Work Day. In fliers and educational meetings, the Union of Needletrades, Industrial and Textile Employees is warning garment workers who let their daughters work in garment factories that such child labor is often illegal and dangerous.

"Child labor in the shops is a serious problem, especially in the summer," said Danyun Feng, coordinator of the don't Bring Our Daughters program. "Unfortunately, these children are very easy to exploit, and their wages are usually very low."

The union is pushing this program because it thinks child labor is wrong and hurts youngsters, and it asserts that child labor undercuts union wage scales. It also recognizes that campaigning against such violations could make the union more popular among the Chinese-American workers it is seeking to unionize.

The child labor campaign is concentrated in two Chinese-American neighborhoods where garment factories flourish: Chinatown in Manhattan and Sunset Park in Brooklyn.

"Child labor has been a source of heartache for garment workers past and present," said May Ying Chen, assistant manager of Local 23–25, representing 24,000 New York garment workers.

Ms. Feng said garment workers often tell her that they have little alternative but to take their daughters to work on Saturdays or summer days. They often take 3-year-olds who play next to their sewing machines and frequently take 13-year-olds who are employed at nearby machines.

"They tell us they are low-income families who have to work very hard and need almost everybody in the family to help earn money," Ms. Feng said.

The campaign aims not just to discourage children from working but also to develop ways for children to spend their nonschool days somewhere other than a clothing factory. Last summer, the union funneled some teen-agers into a voter registration drive.

This summer, the union hopes to establish a program in which teen-agers can take courses, care for children and clean neighborhoods.

Union officials feared that the Ms. Foundation for Women, which sponsors the nationwide Take Our Daughters to Work Day, would attack their program for mocking the name of the national effort. But Marie Wilson, president of the Ms. Foundation, said: "I think it's great. When we created this day, it was really to call attention to the conditions in which girls live. This day is all about respecting your daughter, and that's what this program does."

Union officials acknowledge that part of the Don't Bring Our Daughters drive is intended to encourage the children of garment workers to aspire to better-paying, more stimulating careers. The union also wants to make sure children appreciate how hard their parents toil and how bad factory conditions often are.

"Of course, we want our children to get better jobs than we have," said Chung Siu, a garment district seamstress. "They should go to college. We hate these garment shops."

ORGAN DONOR AWARENESS WEEK

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today in support of Organ and Tissue Donor Awareness Week. In 1985, Congress set aside this week to promote a greater understanding about the lifesaving benefits of organ donation.

This week is about many things. It is about educating people about the organ donor program. It is about encouraging people to consider organ donations. And, it is about recognizing those people who have given this gift of life.

Last year, 121 people in New Jersey donated organs, making 315 lifesaving transplant operations possible. However, Mr. Speaker, we need to do so much more.

There are more than 51,000 people in the United States awaiting organ transplants, nearly 1,000 residents in my State of New Jersey alone. Tragically, many of these people will die before they are able to receive a transplant due to the shortage of available donor organs.

Mr. Speaker, I am a member of the Congressional Diabetes Caucus. Diabetes is the leading cause of heart disease, stroke, amputations, blindness and kidney disease. It is the single most prevalent chronic illness among children.

Any person living with diabetes knows that there may come a day when they will develop renal disease, which will necessitate a transplant. We must make sure, when there is a need for a kidney transplant or for a cornea transplant to restore sight, that an organ is available.

Each one of us has a unique opportunity to help our fellow citizens. By signing an organ donor card, as I have, we are able to give the most precious of gifts to another human being. It may be the gift of sight; it may be the gift of life.

During this week, I urge all of my colleagues to give very serious consideration to signing an organ donor card.