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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

SENATE—*Thursday, July 23, 1998*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. David W. Anderson, of the Faith Baptist Ministry, Sarasota, FL.

PRAYER

The guest Chaplain, Rev. David W. Anderson, Faith Baptist Ministry, Sarasota, FL, offered the following prayer:

Almighty Creator and Giver of life, we bow before You with thankful hearts for the innumerable blessings bestowed upon America. Your wisdom guides us to truth, and Your power sustains our freedom. Your forgiveness cleanses our transgressions, and Your Spirit calls us to be a righteous and just Nation.

Wonderful Counselor, enable the men and women of this Senate to balance the pressures of their individual lives with the demands of their offices. Comfort their hearts in times of personal crisis and protect their families. Grant them time with their loved ones and remind them of their need for faith. Strengthen their character and clarify their vision that they might address the complex issues facing our Nation with wisdom, courage, and compassion.

Lord, bless the talents that You have bestowed upon these Your servants. Reward them for the leadership they exercise. Give them the courage to do what is right, the conviction to resist what is wrong, and the counsel to discern the difference. Help them to discuss issues of national concern in a spirit of unity and cooperation, knowing that together they serve the same people and the same sovereign God. In Jesus' Name, I pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. GREGG. Mr. President, this morning the Senate will resume consideration of the Commerce/Justice/State bill. At 9:15 a.m. the Senate will vote in relation to the Craig amendment followed by a vote in relation to the underlying Kyl amendment. Following those votes, under a previous consent agreement, the Senate will debate several amendments to be offered to the C.J.S. bill. At the conclusion of that debate, which is expected by early afternoon, the Senate will proceed to a stacked series of votes in relation to those amendments. Following disposition of all amendments in order, it is expected that the Senate will quickly proceed to final passage of the Commerce/Justice/State appropriations bill. Upon completion of the C.J.S. bill it is hoped that the Senate will begin consideration of the transportation appropriations bill. Therefore Members should expect another late night session with votes as the Senate attempts to make progress on the remaining appropriations bills. I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. COATS). Under the previous order, leadership time is reserved.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the Commerce-Justice-State appropriations bill, S. 2260, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2260) making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kyl/Bryan amendment No. 3266, to prohibit Internet gambling.

Craig modified amendment No. 3268 (to amendment No. 3266), to clarify that Indian gaming is subject to Federal jurisdiction.

AMENDMENT NO. 3268

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes for debate, divided in the usual form, on amendment No. 3268, offered by the Senator from Idaho, Mr. CRAIG.

Mr. KYL. Mr. President, since Senator CRAIG is not here, without impinging on the time, I ask unanimous consent that the Presiding Officer, Senator COATS, as well as Senators ENZI, BOND, and MCCONNELL, be added as cosponsors of the amendment of the Senator from Nevada and myself.

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

Mr. KYL. Mr. President, perhaps Senator CRAIG would like to call for a vote on both his amendment and the underlying amendment. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and yeas.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I join the Senator and ask for the yeas and nays on the Craig amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I understand each side has 5 minutes. If the desk will notify me when I have used 2 minutes.

Mr. President, my amendment to the Kyl amendment attempts to clarify what I think is important that we do. The Indian Affairs Committee has the authority to hold hearings to move legislation, to bring it to the floor as it relates to Indian gaming. We created IGRA, the Indian Gaming Regulatory Act, and the National Indian Gaming Commission for the purpose of regulating Indian gaming. Indian gaming is regulated.

But the Senator from Arizona, without hearings on this in the authorizing

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

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committee, steps in and makes significant changes in the Indian gaming law. Now, the Senator from Arizona and I agree that gaming ought to be regulated; it ought to be controlled, the access ought to be controlled. We want it limited. But in this case, it isn't a matter of limiting, it is a matter of outlawing, stopping something that is already out there, already working, already has stood the test of officialdom, and we believe it meets those standards, and that is the National Indian Lottery. So I hope that my colleagues will stand with me in saying we want regulation and control.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. CRAIG. I appreciate that. We don't want this kind of stepping in and simply wiping out, with the appropriate committee not holding a hearing to understanding what is exactly going on. That is the intent of my amendment—to maintain the integrity of the National Indian Gaming Commission and the recognition of the relationships between the Indian Nations and the United States itself and the treaty relationship that is clear and has been well established.

I retain the remainder of my time.

Mr. KYL. Mr. President, I yield time to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I oppose the Craig amendment, which will change gambling in the United States as we currently know it. It will give legal validity to the claims that the tribes have that they can provide gambling all over the United States. They cannot; it is illegal. This amendment would give them a monopoly on the Internet in every home in America, without any age discrimination. That is the reason we require it to be on premises, so we can check to see if kids are gambling. This will eliminate enforcement in States like mine where we have had a referendum on gambling.

It was defeated 2-to-1 in every single county in our State. We do not want gambling in Wyoming. We defeated it soundly. This would allow gambling in Wyoming. This would give national legal validity. This will replace lotteries across the State, when they can finally advertise it to the extent that they really want to do it. This will provide for eventual, complete electronic gambling for every home in America, without any State being able to oppose it.

I ask you to oppose the Craig amendment and support the Kyl amendment.

Mr. KYL. Mr. President, I am pleased to yield 1 minute to the Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I am in support of Senator KYL, but I must state my objection to Senator CRAIG's amendment.

In my career in the U.S. Congress, representing Atlantic City, I have never risen on the floor to oppose gaming. But this is too much. All of our communities have a right to decide when and where we want gaming. We restricted it to one city in New Jersey. Under Senator CRAIG's amendment, every living room, every child's bedroom in America will become a gaming parlor. The Internet will bring gaming to children, and it won't be restricted to problem gamers. There will not be any control. If we want to have Indian tribes having Indian gaming, let them do it on their reservation. That is their right, their sovereignty. But my State has sovereignty, too. We have decided not to allow gaming in every community. Some States, like Utah, and many of your States, have decided not to have it at all. Now it will be imposed upon you with a monopoly of gaming on the Internet, available to everyone. I urge my colleagues to defeat the Craig amendment.

Mr. INOUYE. Mr. President, I rise to address some of the statements that were made in our debate last evening on Senator CRAIG's amendment on Senator KYL's amendment on internet gaming.

First, Mr. President, I want to make clear that the amendment we propose absolutely would not exempt Indian tribal governments and Indian gaming from the purview of the Internet Gaming Prohibition Act.

Rather, the amendment allows only the conduct of those games with the application of technology—not internet technology—but the application of television and satellite-generated technology that we envisioned could be used for the conduct of bingo or games that are subject to a tribal-state compact under the Indian Gaming Regulatory Act.

The language on page eleven of Senator KYL's amendment makes it abundantly clear that each person placing or receiving or otherwise making a bet or wager must be physically located on Indian land and that class III games must be conducted consistent with a tribal-state compact and only in the state to which the compact applies.

So we are not proposing to exempt Indian gaming from the internet gaming prohibitions outlined in Senator KYL's amendment.

Secondly, I would want my colleague from Arizona to know that as we read it, there is an ambiguity in the amendment.

States are authorized to enforce the provisions of this amendment, should it become law, for violations by a person.

The term "person" includes "any government"—which must refer to tribal governments, because all other levels of government are specifically mentioned.

Thus, while one section of the bill would restrict state authority to what is provided in tribal state compacts, another section of the bill gives states broad authority to enforce the act as it may relate to the conduct of tribal governments.

Senator CRAIG's amendment would simply preserve the status quo and maintain the integrity of the pervasive federal regulatory scheme in which federal criminal laws are enforced by the United States on Indian lands—a framework, which as I said last evening, has been in place for over one hundred years.

I thank my colleague from Idaho and I wish to assure my colleague from Arizona that I look forward to continuing to work with him as this bill proceeds to conference to address these two matters that I have outlined.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I inquire how much time remains.

The PRESIDING OFFICER. The Senator has 2 minutes 40 seconds.

Mr. KYL. I yield 1 minute 20 seconds to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank my colleague from Arizona.

Mr. President, I rise in opposition to the Craig amendment. Three million children in America today are on line on the Internet. By the year 2000, 15 million children will be on the Internet.

Senator KYL and I have offered an amendment which takes a public policy which I think every parent in America will support; that is, to prohibit gambling on the Internet. There simply is no way to control access to the Internet and to the types of gambling that are offered.

If the Craig amendment is adopted, that policy is effectively emasculated.

I join with the junior Senator from Arizona in asking this body to defeat the amendment because every child and every home in America that is on the Internet will have access to gambling on the Internet.

My view is that there is no public policy that would support, in effect, a carve-out to say that we prohibit gambling on the Internet in America for everyone except Indian tribes. That makes no sense, may I respectfully submit to the Presiding Officer and to my colleagues.

If you believe, as Senator KYL and I do, that Internet gambling should be regulated and that we should not have access to Internet gambling by children, vote against the Craig amendment.

I thank the Chair.

Mr. KYL. Mr. President, the Senator from Idaho wishes to close. Therefore, let me reiterate the key points that the Senator from New Jersey, and also the Senators from Wyoming and Nevada, have made; that is, that you cannot have any exceptions to a national

prohibition on Internet gambling if you want the policy to work, because if anyone can do it, then the gambling can occur in the homes, in the privacy of the homes around this country by children, by problem gamblers, or by anyone else if there is any exception because the Internet reaches across interstate boundaries. It knows no boundaries. It reaches into any State. And no State can protect its citizens and protect its public policy of outlawing this activity.

I want to make it very clear that this activity is not being conducted legally today.

In a letter written by the State attorneys general, including the attorney general of Idaho on this precise point, the attorneys general said,

> If Internet gaming is allowed to facilitate the remote placing of bets on an Indian gaming activity, the ultimate absurdity would result. The logical consequence of such a position is that any off-reservation telephone, computer with a modum et cetera, would become a gambling device by which the consumer could communicate with the tribe for the purpose of gambling.

And they specifically refer to the Coeur d'Alene Tribe in Idaho, which is the tribe that the Senator from Idaho wants to permit to gamble.

I urge a vote against the Craig amendment.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the Senator from Arizona quotes a letter crafted in 1992. Since that time, the tribe in the State of Idaho has a compact that has been established. The attorney general of the State of Idaho believes this is significant.

The topic of children is an interesting item. The Presiding Officer, I and everyone else is very concerned with children's access to the Internet. We recognize the need to provide legislation to block that, and we should.

What I am talking about is something that is already official, that is already underway, and we have not heard a great hue and cry about the damaging of or the destruction of children.

There is something else that is interesting.

We heard from New Jersey and we heard from Nevada. They are protecting their big gaming interests. There are already exceptions in this bill.

There are five exceptions in this bill to use the Internet system to traffic information about gaming.

The Senator is not pure on this. Let's be real, and let's be honest about it. Let's use the committees we have. Let's use the law, the rules, and regulations to govern, control, and regulate Indian gaming structured in a certain way to protect it so that children don't have access to it; so that there is an official screening process; that it is effectively monitored and controlled.

I agree that we ought to control the Internet system, and we ought to make sure that there is not unlimited access. That is exactly what we are trying to do here today.

But let's not destroy the laws that we have created for Native Americans in this country—the controls, and the regulatory system that is established out there.

We heard from the former chairman of the committee. We have already heard from the chairman of the committee. He is saying no hearings were held. A Senator from outside the committee reaches in and changes substantially the structure of the IGRA law and the National Indian Gaming Commission law.

What I am telling you this morning is that you have an option to keep whole the law of the land, which we crafted to control Indian gaming, while at the same time protecting the Internet from open access from offshore gaming from the kind of things that the Senator from Arizona has an absolute right to be concerned about. I, too, am concerned, and I hope that my colleagues will join with me in voting for the Craig amendment to protect the integrity of the Indian Gaming Commission, and the national Indian gaming law that we have established.

With that, I yield the remainder of my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, what is the situation now? Are we prepared to go to that vote unless I use leader time at this point?

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I give myself such leader time as I might use. I will be brief, because I know Members are expecting to vote right away.

But I rise to speak against the Craig amendment. I have a long history of being interested in and concerned about the rights and guarantees that we have given Indian tribes. We have one in my home State that has been very industrious. They are really good entrepreneurs and good citizens. I enjoy working with them very much. But this is something beyond that. This would give them ability to get into Internet gambling in a way that it could go into every school and every home all across America.

This is not about tribal rights on their reservation or within their tribal areas. This goes across America. To have a special carve-out for Indian tribes on gambling, I think, is just a fundamental mistake.

I understand why the Senator from Idaho feels he must do that. I understand that there have been some court actions about it. But I also think there is a fundamental principle here. And this violates that principle. They should not be given an opportunity that nobody else in America would have. It touches all Americans.

I am always hesitant to rise in opposition to my friend and my coleader in the Republican Party. But I think in this instance he is just fundamentally wrong.

I urge colleagues to vote against the Craig amendment.

I yield the floor.

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

The assistant legislative clerk called the roll.

The result was announced—yeas 18, nays 82, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—18

Biden	Daschle	Kempthorne
Boxer	DeWine	Kerrey
Campbell	Domenici	McCain
Cochran	Harkin	Moynihan
Craig	Inouye	Stevens
D'Amato	Johnson	Wellstone

NAYS—82

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

The amendment (No. 3268) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3266

The PRESIDING OFFICER. The Senate now will have 2 minutes, under the previous agreement, for debate on the Kyl amendment.

The Senator from Arizona is recognized.

Mr. KYL. Thank you, Mr. President.

Mr. President, I thank everyone for the last vote.

The point is, if you are going to ban an activity because the public policy of all 50 States is that their children and the families in those States should be

protected from this activity, if you ever allowed one exception, then because of the nature of the Internet, you wouldn't have a bill.

I appreciate that, and I think that clears the way for passage of the Internet Gambling Prohibition Act. I note for the RECORD some of the organizations that support this legislation: Ralph Nader's Public Citizen, the Christian Coalition, the Focus on the Family and Family Research Council, National Coalition Against Legalized Gambling and Against Gambling Expansion.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. Will Members please cease all conversations?

Mr. KYL. Mr. President, sports organizations, in particular, are obviously very much afraid of the adulteration of professional and amateur sports. As a result, groups like the National Amateur Athletic Association, Major League Baseball, NFL, NBA, National Hockey League, National Soccer League, and, of course, law enforcement and all 50 States attorneys general support this legislation. In fact, it is because of them that we are proposing it. We can't protect the citizens of our States unless we have legislation of this kind.

Mr. MCCONNELL. Mr. President, I commend Senator KYL for his hard work and determination in bringing S. 474 to the floor today. I am most appreciative that during the process, you have worked closely with several parimutuel industry groups to make certain that S. 474 does not unduly restrict Internet commerce. The bill reflects a clear understanding of this emerging medium and its potential for both honest and unscrupulous purposes.

Mr. KYL. Thank you, Senator MCCONNELL.

Mr. MCCONNELL. Mr. President, I wish to engage the Senator from Arizona in a short colloquy. This is a complicated bill. It addresses areas where technology is rapidly evolving. Some of my questions may be fairly arcane and will be of interest only to those intimately familiar with the intricacies of the interstate simulcasting of horse racing so I ask that my fellow members be patient with us as we work our way through some of these issues.

Senator KYL, as you are well aware, there are a myriad of federal and state laws and regulations that impact interstate simulcasting. In every instance, I will assume that we are addressing only the application of the language of S. 474 and not the general legality of any specific example given. With that understanding, I will proceed with the first of my questions.

Senator KYL, am I correct that S. 474 does not apply to racetracks that may advertise or make past performances, how-to-bet, promotional, and other similar kinds of information available whether via a racetrack World Wide Web site on the Internet or other technological media.

Mr. KYL. The Senator is correct.

INFORMATION ASSISTING IN PLACING A BET OR WAGER

Mr. MCCONNELL. Senator KYL, I now want to discuss the impact of S. 474 on the current practice of the horse racing industry commonly referred to as "simulcasting and commingling of parimutuel pools." Simulcasting of horse racing across the country and around the world has grown exponentially in recent years, to the point that simulcasting now accounts for as much as 60 percent of the industry's total wagering.

To foster growth in the simulcasting market, tracks now routinely merge or commingle the parimutuel pools from several tracks and off track parimutuel facilities into common parimutuel pools. Current odds and winning payoffs are then calculated using a totalizator system. Commingling is a practice preferred by bettors because it increases pool sizes and thus helps to minimize the fluctuation of odds and payoffs.

Any diminution in its current ability to simulcast or commingle pools could have catastrophic effects on the parimutuel industry.

Mr. KYL. Senator MCCONNELL, I assure you S. 474 is not intended to limit the racing industry's activities in the area of simulcasting and commingling of parimutuel pools.

Mr. MCCONNELL. Senator KYL, I appreciate your willingness to consider the parimutuel industry. Now, if I may clarify a few more points.

Section 2 of the bill exempts four categories from the definition of "information assisting in the placing of a bet or wager." My next few questions relate to the applicability of these provisions.

First, Senator KYL, as to the first category of exempt information, found in subsection (8)(C)(i), am I correct in assuming that "common pool parimutuel pooling" and "commingling of parimutuel pools" are two names for the same process—the merging of parimutuel pools from two or more locations for purposes of calculating the odds and payoffs?

Mr. KYL. Yes, you are correct.

Mr. MCCONNELL. Senator KYL, according to subsection (8)(C)(i) in section 2 of the bill, information concerning parimutuel pools that is exchanged between certain racetracks or other parimutuel facilities is exempted from the prohibition on "information assisting in the placing of a bet or wager" so long as that information is "used only to conduct common pool parimutuel pooling." Does this mean that a racetrack or other parimutuel facility may accept wagers on races run at another facility (known as the Host Track), whether the Host Track is located within the same state or in another state or foreign country, and commingle its parimutuel pools into the parimutuel pools at the Host Track?

Mr. KYL. Yes, commingling of wagers as you describe is permitted by S. 474. However, each facility that participates in the pools must be licensed by the state or approved by the laws of the foreign jurisdiction in which it operates.

Mr. MCCONNELL. What if the Host Track located in one state utilizes a totalizator system located in a second state or even a foreign country—could a racetrack or parimutuel facility located in either the host state or a third state commingle wagers on races run at the Host Track into the parimutuel pools at the Host Track without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. Subsection (8)(C)(ii) states that "information exchanged between" certain racetracks or other parimutuel facilities and "a support service located in another State or foreign jurisdiction" is not considered "information assisting in the placing of a bet or wager" if "the information is used only for processing bets or wagers made by or with that facility under applicable law."

The location of the totalizator or other similar system used to process parimutuel pools is irrelevant if the parimutuel pools are transmitted from and received by facilities each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

Similarly, commingling may require the use of data transmission or phone lines that pass through numerous states. In such event, it is irrelevant whether parimutuel wagering is legal in all such states. The only relevant inquiry is whether each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

The term "support system" should be read broadly to mean any system or service necessary to transmit or process information related to the commingling of parimutuel pools, including totalizator systems, telephone lines, and other similar technological devices essential to the commingling process.

Mr. MCCONNELL. What if the host for the wagering pools is in one state or foreign country, the totalizator is in a second state or foreign country, and the race is actually contested in a third state or foreign country. Could commingling of pools take place under this arrangement without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. As I states earlier, the location of the totalizator or other similar system used to process parimutuel wagers is irrelevant if the parimutuel pools are transmitted to or from facilities each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

Mr. McCONNELL. Senator KYL, the phrase "approved by the foreign jurisdiction in which the facility is located" is used throughout subsection (8)(C). In some foreign countries, the law may simply permit simulcasting and commingling of pari-mutuel pools without requiring formal approval by a regulatory authority. I presume that in such cases, S. 474's approval requirement will be satisfied.

Mr. KYL. Senator McCONNELL, you are correct.

ACCOUNT AND INTERACTIVE WAGERING

Mr. McCONNELL. Senator KYL, I would like to discuss the impact of S. 474 on account wagering. It is presently legal, and operating to varying degrees, in eight states. Other states are presently considering this form of wagering on racing. The horse racing industry wants to be able to continue account wagering and other similar activities that utilize emerging technologies. A variety of federal and state statutes and regulations now govern this activity and together, they form a capable regulatory system for parimutuel wagering. Again, any restriction on the current regulatory structure might unduly hamper one of racing's most promising areas for growth.

Mr. KYL. Senator McCONNELL, what I stated earlier with respect to simulcasting and commingling of parimutuel pools applies equally to account wagering. This bill is not intended to hamper the future growth of horse racing.

Mr. McCONNELL. Senator KYL, again, I appreciate your willingness to consider the parimutuel industry. Now, if I may clarify a few more points.

Section 3 of the bill broadly prohibits both individuals and persons engaged in a gambling business from placing, receiving, or otherwise making a bet or wager through the Internet or any other interactive computer service. Then, subsection (e) of that section grants two exceptions related to racing: one is an exception for wagers placed by persons physically present at a racetrack or parimutuel facility; a second exception is provided for persons placing, making, or receiving a parimutuel wager on a "closed-loop subscriber-based service that is wholly intrastate."

My first question is this. Am I correct in my analysis that S. 474 does not prohibit or restrict account wagering by telephone?

Mr. KYL. Yes, the bill does not address telephone account wagering.

Mr. McCONNELL. Am I correct that an interactive account wagering system that uses a variety of communications media and computer technology to present audio and/or video information about the races to the home and to communicate wagers from the home to a racetrack or parimutuel facility constitutes an "interactive computer service."

Mr. KYL. Yes.

Mr. McCONNELL. Will such an interactive account wagering system that accepts wagers only from account holders physically located within the same state as the facility where the account wagering system originates pass muster under section 3 of S. 474?

Mr. KYL. Yes, assuming the interactive account wagering system meets the requirements for a "closed loop subscriber-based service" as defined in section 3 of the bill.

Mr. McCONNELL. Senator KYL, does a person have to be physically present at a facility that is open to the public to make a lawful interactive account wager?

Mr. KYL. Again, so long as the person placing the wager is doing so using a "closed-loop subscriber-based service" the person is not required to be physically present at a facility that is open to the public to make a lawful wager.

Mr. McCONNELL. What if the facts are the same as my first interactive account wagering question (i.e., both customer and facility are physically present in the same state) but the race on which the account holder is wagering is being contested in another state or foreign country and the facility where the account wagering system originates is commingling its pools, including its account wagering pools, into the pools of the out-of-state host track where the race is being run. Will this fit within the exceptions found in Section 3 of S. 474?

Mr. KYL. Yes, assuming of course that the wagering pools are being commingled in accordance with section 2 of the bill and further assuming the account wagering system meets the requirements for a "closed loop subscriber-based service."

Mr. McCONNELL. Senator KYL, just a few more questions and we will be finished.

In section 3, Section 1085(e)(2) of the bill, you prohibit the use of an agent or proxy to place wagers unless the agent or proxy is acting on behalf of a licensed parimutuel facility "in the operation of the account wagering system owned or operated by the parimutuel facility." What if a facility licensed to operate an account wagering system engages a separate company to provide the technical expertise necessary to implement an interactive account wagering system on its behalf. Would such an agency fall within the scope of the permitted agency provisions of the bill referenced above?

Mr. KYL. Yes, such a system is an allowed agent, assuming, of course, the interactive account wagering system meets the requirements for a "closed-loop subscriber-based service that is wholly intrastate."

Mr. McCONNELL. thinking back to our earlier discussion of a "support service," what if the facility where the interactive account wagering system originates chooses to utilize support services such as a totalizator system or an interactive computer system located in a second state or even a foreign country to service the account holders.

Mr. KYL. The use of such support services does not change the result assuming the account wagering system meets the requirements for a "closed loop subscriber-based service that is wholly intrastate." As stated previously, the location of the totalizator, path of the phone lines, or the site of other similar support systems is irrelevant.

ENFORCEMENT

Mr. McCONNELL. Finally, Senator KYL, section 4 of the bill spells out in great detail the civil remedies available to U.S. Attorneys and State Attorneys General to enforce the provisions of S. 474. Section 5 likewise calls for the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General of the United States and the Secretary of Commerce, to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

Nonetheless, many are concerned that this legislation will be difficult to enforce. If the only entities that obey it are the legitimate, state-licensed parimutuel operators, which they will, while others outside the jurisdictions of the federal and state authorities do not, then you still have the potential for consumer fraud while not producing any revenues for the federal government, state governments or the racing industry itself.

Mr. KYL. Senator McCONNELL, I am confident that the Justice Department and the National Association of Attorneys General will vigorously enforce this legislation.

Mr. McCONNELL. Senator KYL, once again I thank you and your staff for your hard work and tenacity in bringing this issue before the Senate. I also thank you for your patience in working through these very complicated issues.

Mr. KYL. Senator McCONNELL, you are welcome. I am very pleased that we have been able to work together to protect legitimate, law abiding interests who make significant contributions to the nation's economy.

Mr. LEAHY. Mr. President, I have long been an advocate for legislation

that ensures that existing laws keep pace with developing technology. It is for this reason that I have sponsored and supported over the past few years a host of bills to bring us into the 21st Century. These bills have included the National Information Infrastructure (NII) Protection Act of 1995; the Criminal Copyright Improvement Act of 1997; the WIPO Copyright and Performances and Phonograms Treaty Implementation Act of 1997; the Digital Millennium Copyright Act of 1998; and legislation that passed the Senate on June 26, 1998, to authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

This same impetus underlies my support of legislation to ensure our nation's gambling laws keep pace with developing technology, particularly the Internet. The Department of Justice has noted that "the Internet may have diminished the effectiveness of current gambling statutes, in part because existing laws may relate only to sports betting and not the type of interactive gambling (e.g., poker) that the Internet makes possible." Vermonters have spoken very clearly that they do not want certain types of gambling permitted in the state, and they do not want current laws to be rendered obsolete by the Internet. I believe, therefore, that there is considerable value in updating our Federal gambling statutes, and I have been pleased to work with Senator KYL on his legislation intended to accomplish that goal, the Internet Gambling Prohibition Act of 1998.

The legislation has been improved since it eas reported out of committee.

The Senate Judiciary Committee reported out the bill on October 23, 1997. Although I voted in favor of the legislation at that time, I noted that I had several concerns about the bill and that I wished to work with Senator KYL and others to address these concerns.

The bill as originally drafted might have inadvertently outlawed the tri-state lottery that is run by the states of Vermont, New Hampshire and Maine. Although Vermonters have clearly indicated that they do not want many other forms of gambling, they do want to maintain this tri-state lottery, which has been in operation since 1985.

The legislation now under consideration states that the prohibitions against Internet gambling in the bill shall not apply to any otherwise lawful bet or wager that is placed, received, or otherwise made for a multi-state lottery operated jointly between two or more States in conjunction with State lotteries, if the lottery or activity is expressly authorized and licensed or regulated under Federal or applicable State law.

I would like to thank the office of Vermont's Attorney General for working with Senator KYL and me to craft this language to ensure that Vermont, New Hampshire and Maine's tri-state lottery remains a permissible activity under this bill.

As originally introduced, the bill contained Sense of the Senate language that the Federal Government should have extraterritorial jurisdiction over the transmission to or receipt from the United States of bets or wagers, information assisting in the placing of bets or wagers, and any communication that entitles the transmitter or recipient to the opportunity to receive money or credit as a result of bets or wagers.

That provision was changed, and when the bill was reported out of the Judiciary Committee, the Sense of the Senate provision was replaced with a requirement that not later than six months after the date of enactment, certain Administration officials would be required to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

I was concerned about the constitutionality of this new requirement mandating that the Executive Branch undertake international negotiations, particularly in light of the decision of the 1993 U.S. Court of Appeals for the Ninth Circuit in Earth Island Institute versus Christopher. The court in this case held unconstitutional a portion of a statute which directed the Secretary of State to initiate international negotiations regarding the protection and conservation of a certain species of sea turtles.

Specifically, the court held this type of directive to intrude upon the conduct of foreign relations by the Executive Branch on the grounds that the "Constitution commits the power to make treaties to the President."

The Department of Justice also recommended the deletion of this section. As Anthony Sutin, Acting Assistant Attorney General, stated in his May 28, 1998, letter to me on this legislation:

> If we request that foreign countries investigate, on our behalf, conduct that is legal in the foreign state, we must be prepared to receive and act upon foreign requests for assistance when the conduct complained of is legal, or even constitutionally protected, in the United States.
>
> For example, if we ask a foreign country to investigate an activity (e.g., gambling) that is legal in the foreign state, that country may, for example, ask us to investigate constitutionally protected speech originating on computers based in the United States (e.g., that arguably violates that nation's "hate speech" laws). Considering all of the challenges facing law enforcement in the information age, we believe that current efforts should focus on conduct which either is, or should be, universally condemned.

Senator KYL agreed to my request that this section of the bill be deleted, and I believe that the legislation is considerably improved for that reason.

Another constitutional concern was raised by earlier versions of the bill that stated that "information assisting in the placing of a bet or wager"—"(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; (B) includes any information that invites the information described in subparagraph (A) to be transmitted;" and then included some exceptions.

I was concerned, as was the Department of Justice, that this language was vague and might raise constitutional concerns as it might be construed to apply to persons who do not have the intent to participate in or assist illegal gambling transactions. Similarly, these earlier versions of the legislation could have been interpreted to prohibit Internet advertising of activities that are entirely legal. This appeared to be an unintentional result of the earlier versions, but one that raised serious constitutional issues.

The Department of Justice suggested deleting subsection (B) altogether, and inserting the phrase "in violation of state or Federal law" at the end of subsection (A). The addition of this latter phrase would ensure that transmission of information assisting in the placing of legal bets or wagers would not be criminalized by this legislation. Senator KYL agreed to delete subsection (B), but he did not add the phrase "in violation of state or Federal law" at the end of subsection (A). I hope this later suggestion by the Department of Justice is accepted as the legislation moves through the legislative process.

In the bill as originally introduced, an individual bettor who was found guilty of Internet gambling would have been subject to a penalty of $5,000, one year of prison or both. I thought that penalty was extreme. If someone places a $1 bingo bet over the Internet, that might not be activity we want to encourage, but I also do not think we need to lock that individual up in prison and charge him or her 5,000 times that amount in penalties. I expressed my view to Senator KYL, and as a result he softened the penalty for individual bettors.

As the bill currently reads, the individual bettor would be subject to (A) fines not more than the greater of (i) three times the greater of the total amount that the individual is found to have wagered or received or (ii) $500; (B) 3 months prison; or (C) both. I hope that prosecutors and judges will use proper discretion when determining, even under this more reasonable regime, whether to expend federal resources prosecuting and imprisoning individuals who place de minimis bets.

The bill as introduced criminalized the activities of those persons engaged

in the "business of betting or wagering," but the bill did not define what constituted a "business of betting or wagering." I believe that it is important that if Congress is going to make certain activities illegal, and subject the executor of that activity to hefty monetary fines and imprisonment, we need to be very clear about what activity, exactly, we are making illegal.

The version of the bill that is now under consideration makes it unlawful for a person engaged in a gambling business for betting or wagering to use the Internet or any other interactive computer service. The bill defines the term "gambling business" as a gambling business that involves one or more persons who conducts, finances, manages, supervises, directs or owns all or part of such business and has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

Although I preferred to use the definition of an "illegal gambling business" found in 18 U.S.C. 1955, I believe the bill as it currently reads is an improvement from the original version, and I appreciate Senator KYL's willingness to work with me on this issue.

In addition, language was inserted into the bill which dictates special rules that would apply in any proceeding instituted under the bill in which application is made for a temporary restraining order or an injunction against an interactive computer service. I was not party to the negotiations on this language, nor am I convinced that this language is necessary. Courts, when determining the appropriateness of equitable relief, generally consider factors such as the significance of the threat of irreparable harm to a plaintiff if the injunction is not granted; the state of the balance between this harm and the injury that granting the injunction would inflict on the defendant; the probability that the plaintiff will succeed on the merits; and the public interest. It has not, to date, been demonstrated to me why these traditional standards are not adequate to address situations involving interactive computer services, and I fear that this new language in the bill might cause more mischief than it would cure. I hope that we can continue to work on this language as the bill advances through the legislative process.

Finally, the Senate has accepted an amendment by Senator BRYAN to include a provision addressing Internet games known as "sports fantasy leagues". I understand that many of the companies that offer these sports fantasy league games are concerned about the wording of this provision. I also understand that they will be seeking refinements in the language as we move through the legislative process, and I look forward to working with them as well as Senator BRYAN and Senator KYL in that regard.

Mr. KYL. Mr. President, I want to note that an interactive computer service whose facilities or service are used by another person as a means of communication to engage in an activity prohibited by section 1085, and where the interactive computer service does not have the intent that such facilities or service be used for such illegal activity, shall not be considered to violate subsection (b)(1)(B).

Mr. KERRY. Mr. President, I would like to direct a few comments to Senator KYL's amendment adding the Internet Gambling Prohibition Act to S. 2260, the Commerce, Justice, State Appropriations bill. I join with my colleague in opposing unrestricted gambling on the Internet, and I support the adoption of his amendment. However, there are often a variety of reasonable approaches to a problem, and we should be careful not to over-legislate. This is true especially with respect to a vital new medium like the Internet which promises to be an engine of growth for our economy and a source of unprecedented benefits to our citizens for years to come. We need to think carefully before government commandeers the electronic network, through online service providers, in the pursuit of conduct we don't like. While I do not object to asking service providers to cooperate in ways that do not involve significant expense or retard the growth and flow of Internet traffic, I am not convinced that the provisions of the current proposal strike the proper balance. In addition, there is a high risk that we may inadvertently sap the vitality of the Internet if we start to require service providers to serve as an arm of our law enforcement agencies. It is my hope that we can address these concerns as we go to conference with the House.

Mr. JOHNSON. Mr. President, I rise today in strong support of the amendment offered by Senators KYL and BRYAN with respect to gambling on the Internet. I am an original cosponsor of S. 474, the Internet Gambling Prohibition Act of 1997, as introduced in March of last year. I also sponsored the House version of this legislation in the 104th Congress because I am committed to preventing children's access to gambling on the Internet and the harm to the American public in general that is sure to follow unregulated gaming.

Gambling in this country has always been a very regulated activity no matter where it takes place. Unfortunately, we are now faced with a potential explosion of unregulated gambling—gambling on the Internet. States have become so concerned about this problem that state attorney's general nationwide have filed suits against gambling operators on the Internet. The Kyl-Bryan amendment clearly defines objectionable internet activity and establishes guidelines for law enforcement to crack down on those who solicit wagering on-line. The bill applies existing laws against telephone betting or wagering to all electronic communications. This Internet gambling ban will be applied to those who accept bets and those who do the betting.

While the Internet provides our children with many educational opportunities, we must closely scrutinize the industry to ensure that children are not let into the world of unregulated gambling. Preventing children or addicted gamblers from being able to gamble in an unregulated fashion on their home computer must be one of our highest priorities as we venture into the new and dynamic area of regulating electronic commerce.

However, as important as the Internet gambling ban legislation is to protecting this nation's children, I feel compelled to state my concerns about the impact of several provisions included in the pending version of the Internet gambling ban legislation as they may impact Indian tribes. I want to take this opportunity to express my strong support for Senator CRAIG's second degree amendment aimed at addressing several of these provisions. Under the Kyl amendment, the Indian Gaming Regulatory Act (IGRA) would be amended without any involvement or input by the committee of jurisdiction, the Senate Indian Affairs Committee, or any tribal consultation.

Senator CRAIG's amendment would make certain that currently lawful activities fully regulated by the federal government and permitted under the IGRA are not impacted by the Kyl amendment. I believe the Craig amendment is not a carve-out or loophole for Indians, but merely aims to preserve the IGRA process. The Craig amendment does not allow for any new type of Indian gaming. Our emphasis today ought to focus on unregulated internet gaming. To the extent that Congress deals with regulated Indian gaming, it should do so in separate legislation with tribal input.

Like Senator CRAIG, I do not want to encourage special treatment or special exemptions for Indian tribes. I just expect equitable treatment of currently lawful gaming activities by tribes and, most importantly, I expect the Senate to respect the committee of jurisdiction on this issue and invite the input of impacted Indian tribes.

As the Indian tribes in my state will attest, Indian Gaming is a regulated industry. Poverty, unemployment, poor health and welfare dominate much of reservation life across the country. With budget cuts to the BIA and other federal support programs for Indians, Congress must continue to encourage economic self sufficiency at the tribal level. If there are shortcomings with the effectiveness of the

current IGRA, they should be addressed with tribal consultation. I am troubled at the prospect of Internet gambling sites opened by any entity, but again, so far as this concern deals with already regulated Indian gaming, it ought to be addressed in separate legislation.

Nationwide, approximately 98 percent of all tribes use the revenue generated by casinos and bingo operations to provide housing, health services, and education to tribal members. Federal law requires tribal governments to use gaming revenue to fund these essential services. It is properly up to each tribe to determine for itself whether it wants to permit regulated gaming within its boundaries. Frankly, I would prefer that other types of economic activity would take hold in Indian country, but I also recognize that in the eyes of many tribal leaders, gaming has proven to be the only successful economic growth option that has worked. Our nation must have tightly regulated Indian gaming, but the ultimate decision whether to permit gaming on a particular reservation should be with the tribe itself. I am committed to protecting the interests of tribes in my state and across the country as they explore economic development through lawful gaming ventures.

Like many of my colleagues, I realize that this debate is clear evidence of the pressing need for Congress to revisit existing Indian gaming regulations and law. I will urge the Senate Indian Affairs Committee to continue moving forward on this matter.

Mr. President, as an original cosponsor of S. 474, I am nevertheless committed to the Internet Gambling Prohibition Act because the bottom line of this legislation is protecting our citizens and especially our kids. I am aware that the Justice Department believes overall enforcement of this law will be difficult, but I feel strongly that the time has come for Congress to push this issue and instruct Justice to develop the necessary enforcement capabilities and end unlawful Internet gambling. I will support the Senators from Arizona and Nevada, and will work with the Senators and the conferees on this appropriations bill to address the remaining issues of concern to tribes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let's get it straight what this does. All of you came to me and said, "I can't vote for the Craig amendment because it expands gambling on the Internet." What the Kyl amendment does is expands gambling.

Right now it is illegal to use the wire to place a bet. U.S. Code 18, section 1084, Transmission of Wagering Information Penalties. Read it. I don't have a minute. It is illegal now.

What the Kyl amendment does is make what is now illegal legal for certain carved-out exceptions which benefit—and there is nothing wrong with this, depending on your interests—which benefit certain segments of the gambling industry. That is what this does.

If I had more than a minute, I would explain in more detail. This expands gambling. It does not cut back on gambling. It expands it. What is now illegal in certain areas becomes legal.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. BRYAN. Mr. President, I ask unanimous consent to speak for 1 minute on this issue.

Mr. BIDEN. Reserving the right to object, only if I have a minute in response.

The PRESIDING OFFICER. Is there objection to the request?

Mr. McCAIN. Objection.

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I would like to hear an additional minute——

The PRESIDING OFFICER. Objection is heard. The yeas and nays have been ordered. The clerk will call the roll.

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

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent that a minute be granted to the Senator from Delaware and a minute to the Senator from Nevada.

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

The Senator from Nevada is recognized for 1 minute.

Mr. BRYAN. Mr. President, let me say in response to my good friend, the able Senator from Delaware, every States attorneys general in America supports this amendment. Mr. Freeh, the Director of the Federal Bureau of Investigation, supports this amendment.

Under the current law, Internet gambling is spreading all over. There are 140 web sites, $1 billion. We seek to close that door. The Kyl-Bryan amendment seeks to prohibit Internet gambling for everyone—for everyone—so it is not an expansion of gaming.

We want to take gambling off the Internet so kids, libraries, and everybody else who can dial up on the Internet these days will not have access to an Internet gambling site. There are currently 140. That is twice as many as the year before. A year from now, there will be 500 if we don't close this hole. The Christian Coalition, everyone from major league sports teams to the attorneys general to the consumer groups all support this amendment.

The PRESIDING OFFICER. The time allocated to the Senator has expired. The Senator from Delaware has 1 minute.

Mr. BIDEN. Mr. President, that is the first part. Read the second part. It says, a little phrase says exceptions:

> Exceptions—Otherwise lawful bets or wagers that are placed, received or otherwise made wholly interstate for State lotteries, racing or parimutuel activity.

Exceptions.

Let me point out one other thing. Under current Federal law, it is illegal to take a bet using a telephone wire, which means that under current law, basically all Internet gambling is illegal because you use a wire.

Under the Kyl amendment, it would become legal to take a bet on the Internet if the States where the bettor placed and received authorized the bet and the bettor is a subscriber of a gambling company's network. This is an expansion. Expansion.

If you want to do something about the Internet, strike exceptions, and I promise you, the sponsors will vote against this. Strike exceptions. If you don't want any betting using the wire, strike "exceptions."

The PRESIDING OFFICER. The time allocated to the Senator has expired.

The question is on agreeing to amendment No. 3266. 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 90, nays 10, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—90

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

NAYS—10

Biden	Feingold	Stevens
Craig	Harkin	Wellstone
Daschle	Inouye	
Domenici	Moynihan	

The amendment (No. 3266) was agreed to.

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

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. Mr. President, I ask unanimous consent for floor privileges for Linn Schulte-Sasse, a staffer for the Senator from Minnesota, Senator WELLSTONE.

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

Mr. KYL. Mr. President, I thank the National Association of Attorneys General, especially Attorney General Dan Lungren and Attorney General Jim Doyle, and Thomas Gede, Traci Sanders, Alan Kesner, and Stephen Higgins, of my staff, and Andy Vermilye of Senator BRYAN's staff for their assistance in the bill which we have just passed. I appreciate their efforts very, very much.

Mr. NICKLES. Mr. President, I compliment my colleague from Arizona and also Senator BRYAN from Nevada for their leadership in and passage of their amendment. I think it is a very important amendment and not an easy one. I compliment them for doing it.

AMENDMENT NO. 3272

(Purpose: To amend certain criminal laws relating to the compensation of attorneys)

Mr. NICKLES. 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 Oklahoma [Mr. NICKLES] for himself, Mr. INHOFE and Mr. SESSIONS, proposes an amendment numbered 3272.

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

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

The amendment is as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. COMPENSATION OF ATTORNEYS.

(a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

"(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).".

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking "Payment" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), payment"; and

(2) by adding at the end the following:

"(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).".

The PRESIDING OFFICER. There are 10 minutes equally divided on this amendment. The Senator from Oklahoma is recognized.

Mr. NICKLES. The amendment I send to the desk on behalf of myself, Senator INHOFE, and Senator SESSIONS would try to bring some balance on what we pay for court-appointed attorneys in Federal death penalty cases. Right now, we find out that in a case conducted in Colorado, the so-called McVeigh case, Oklahoma City bombing case, the defense attorneys—these are court-appointed, taxpayer-financed attorneys—are compensated at a rate much higher than we pay U.S. attorneys.

I wasn't aware of this. I didn't know about it until the U.S. attorneys from Oklahoma mentioned to me that in some cases court-appointed defenders are paid at rates maybe three, four, or maybe five times as much as they are paid.

Just to give you the figures, the U.S. attorneys in most places around the country are paid $118,000.

A court-appointed defense attorney is paid $125 an hour. In some of these cases, like the Oklahoma City bombing case, it is not unreasonable that they might work 80 hours or more per week. That means they make $10,000 a week. A U.S. attorney makes $10,000 a month—actually, a little less than that. So the essence of this amendment is that we should not compensate court-appointed attorneys more than we pay U.S. attorneys. I might mention that in the Oklahoma City case, we had a court-appointed attorney and I think 13 assistants, all of whom would be eligible to receive these large sums.

So I thank my colleague, Senator SESSIONS, who is a former U.S. attorney, and also my colleague, Senator INHOFE. I hope we can adopt this amendment.

Mr. GREGG. Mr. President, I rise in support of the amendment. I think it is an excellent amendment. It is an issue that we have raised a number of times at the subcommittee level with the judges. We are not only concerned about the reimbursement schedules being skewed, but we are especially concerned about the fact that in capital crimes we are spending an extraordinary amount of money on defense counsel—over a million dollars in many instances. That comes right out of the taxpayers' pockets. It is very difficult and it skews the entire ability to do other defense work because of how much money is pouring into the capital crime area.

This specific amendment is right on target. I strongly support it. I hope we will not have to go to a vote on it, but if we do, I hope we can agree to this.

Mr. HOLLINGS. Mr. President, Senator LEAHY of Vermont is presently conducting a hearing, and he is in opposition to this. He is unable to be here to speak at this time.

I am persuaded by the Senator from Oklahoma.

I yield whatever time is necessary to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just state my understanding of this. When I was in private practice—and I don't pretend to know the details of all the circumstances the Senator from Oklahoma is talking about, but when I was court appointed to handle a case, I was expected, through that hourly fee that was granted to me, to cover all of my costs, which meant the costs of my office, costs of my assistants, the costs of everything.

Frankly, the hourly fee I got for court-appointed work was substantially less than the hourly fee I got for any other work. And I assume that is still the case. So I think to make the comparison he is making and say the U.S. attorney gets $118,000 and the court-appointed attorney gets $125 per hour, and that we should try to make a comparison there, I think it is really very much apples to tangerines because, in fact, the U.S. attorney has a tremendous office arrangement, with support of all kinds, in addition to his salary, whereas the court-appointed attorney gets none of that.

Mr. NICKLES. If the Senator will yield, I want to make clear that what we are talking about is compensation. We are talking about payments, not about overhead. The Senator from New Hampshire mentioned that in these Federal cases expenses are allowed. I am talking about compensation. I also might mention that, in Oklahoma, I compared what we pay in Oklahoma for a capital case; there is a $20,000 cap—$20,000 to the lead attorney, and for co-counsel, $5,000.

I might mention, on other cases on the Federal level—for a felony case, we have caps at $3,500. All I am talking

about is having a cap equal to the salary. So we are talking salaries, not about other benefits.

Mr. BINGAMAN. Mr. President, if I could ask the Senator, does his amendment contain a cap as to each case? Is he saying that each capital case will be limited to a certain amount that can be spent on the defense attorney?

Mr. NICKLES. To respond to my colleague, we are talking about so much, not per case, but per attorney. We didn't limit the number of attorneys. We just didn't want to be in a situation where a U.S. attorney is hiring additional counsel and to have the defense counsel say, "Hey, we can pay three or four times more. Come fight on our side of the case."

Right now, in the case of the Oklahoma City bombing case, the defense attorneys made—I am not talking about expenses—they individually made probably three or four times as much as U.S. attorneys. I think that is inequitable. I am talking about what they receive in take-home pay, per attorney.

Mr. BINGAMAN. Let me just clarify. When you are talking about the take-home pay for the court-appointed counsel, you are talking about the amount of funds they take with which to pay for their law firm's ability to participate in the case. I think that is clearly a figure that bears very little resemblance to what the U.S. attorney gets in salary and the paycheck that he takes home at the end of each month. I think you are trying to put an artificial limit on what the court-appointed counsel can get, which I think is a real disservice to the criminal justice system. If we are going to continue with the notion that we are going to have court-appointed counsel for people who are accused of crimes and who can't afford their own counsel, we have to have some reasonable way of compensating them and not expect that court-appointed counsel to work for nothing half of the time, or more, during each month.

Mr. President, based on my understanding of the amendment, I oppose the amendment. I understand that Senator LEAHY is opposed to the amendment, but he is not able to be here right now to make a statement. I think this will artificially limit the amount of work that court-appointed counsel are able to do on behalf of criminal defendants. To that extent, I think it subverts the criminal justice system. I oppose it.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 1 minute 48 seconds.

Mr. NICKLES. Mr. President, certainly, my colleague has a right to oppose the amendment. Let me capsulize it again. We have a situation where Federal death penalty cases—most of them are handled in the States and most States have caps. My State has a cap of $20,000 for the lead attorney. We are not doing that. We are not capping what somebody can pay for their private attorneys. They can pay their private attorney anything they want to.

Since we are talking about court-appointed attorneys, they are going to be paid for by the taxpayers, like we pay U.S. attorneys. I am saying that we should not pay that individual—their compensation, not their overhead or expenses; those are other items—three or four times as much as we pay the U.S. attorneys.

I didn't even say we would limit the number of attorneys. I want people to have an adequate defense. In the McVeigh case, the defense counsel had 13 or 14 attorneys. The expenses are going to come out and be public, and people will be outraged. I am trying to have basic equity. I don't think they should make more than a U.S. attorney. I think that is a real outrage. Then when you find out they might have made three or four times as much money as a U.S. attorney—and again, I am not talking about expenses, I am talking about what they make—that is an injustice. We need equity and balance. That is why I have proposed this amendment. I hope my colleagues will vote for it.

Mr. President, my colleague from South Carolina says U.S. attorneys almost make as much as U.S. Senators. Most of us work a little more than 40 hours a week. Again, I just urge my colleagues to support the amendment. I will ask for the yeas and nays if my colleague from New Mexico wants them.

Mr. BINGAMAN. I don't require the yeas and nays. I would like to be reported as voting against the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, the amendment will be stacked to be voted on later.

Who seeks recognition?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3273

(Purpose: To prohibit from trademark the flag, coat of arms or other insignia of any federally recognized Indian tribes)

Mr. BINGAMAN. 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 Mew Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 3273.

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

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

The amendment is as follows:

At the appropriate place, insert:

Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (b) by inserting "or of any federally recognized Indian tribe," after "State or municipality,".

Mr. BINGAMAN. Mr. President, the amendment is a simple amendment to correct a longstanding error in what is known as the Lanham Act, the statute that controls what can and what cannot be trademarked.

In doing so, let me indicate my appreciation to Senator LEAHY and Senator INOUYE for their support and, of course, my colleague Senator DOMENICI.

Mr. President, the Lanham Act of 1946, the primary statute governing what can and cannot be trademarked, protects flags, coats of arms, and official insignia of the United States, States, municipalities, and foreign nations.

It essentially says those cannot be trademarked. However, the act neglects to protect the insignias which belong to American Indian tribes. I believe strongly that this was an oversight. It is time we corrected the oversight.

Significantly, I want to be clear that in offering this amendment, I do not intend to affect existing trademark rights that may already have been conferred under this act. This amendment also does not have any affect on any current existing, non-trademarked usage of these tribal insignia but only sets out to prohibit the trademarking of tribal insignia in the same way a State's, municipality's, foreign nation's, and the United States' insignia currently is protected.

A key point that must be made here is that tribal governments are recognized as forms of government listed under the Act and should be treated in the same way that State, municipal, county, and of course the United States governments are considered. The Lanham Act originally was passed in 1946, and at that time, there was not as much recognition of the governmental status that federally-recognized Indian tribes hold. Today, however, we understand more than ever that tribal governments are sovereign and should be respected as such. Thus, it is an appropriate time to include federally recognized tribes for protection under the Lanham Act.

Significantly, tribal insignia often are considered sacred by a respective Indian tribe, and for that reason they should be prohibited from trademark.

The Lanham Act protects from trademark anything that would disparage a belief. For example, if someone wanted to trademark a crucifix, Star of David, or Madonna and Child, in such a way that would disparage any one of those significant symbols, the trademark office is directed by law to deny that application for trademark.

However, there are is no similar protections for the many symbols that American Indian people hold very sacred. For example, the Zia pueblo, which is located in New Mexico, holds very sacred a symbol they refer to as the "sun symbol." This symbol is probably familiar to many people because it appears on the flag of the State of New Mexico. It is a very popular symbol among businesses and artisans. The Pueblo of Zia generally does not take particular issue with the use of the symbol unless there is an attempt to have the symbol trademarked, the use of which would disparage their religious beliefs. Clearly they have a real interest in seeing that someone else does not come along and trademark the insignia that the tribe has always claimed as its own. Unless you are a tribal member, you could not appreciate the significance of the symbol. In fact, Zia Pueblo holds the symbol so sacred that it would be against their religious beliefs to disclose to anyone outside of the tribe how they use the symbol in their sacred rituals.

Indeed, applications have been submitted to the Office of Patent and Trademarks, and each time an application is submitted, the Pueblo must contest the application. This involves substantial legal costs to the Pueblo, and the Pueblo Tribe is not in a financial circumstance where it can take on those legal costs in an indefinite future.

The Pueblo is located in a very isolated, desolate area of the state and has very high unemployment. I admire the Pueblo because they hold fast the centuries-old traditions and beliefs in spite of that great economic hardship. They are a non-gaming tribe and have few resources for water treatment facilities, schools or other vital services. Nonetheless, they are willing to contest the trademarking of a symbol that they hold very sacred. The problem is pervasive among all twenty-two tribes in New Mexico and among all American Indian tribes nationwide.

Yet we have a statute in place that protects every form of government, even foreign nations, but it does not protect American Indian governments.

By simply inserting "federally recognized Indian tribes" in a list that already includes "United States," "States," "municipality," and "foreign nation," my amendment finally will offer protection from trademark to tribes the same protection that already is conferred upon any other form of government. My amendment does not affect any existing trademark rights that may already have been conferred under the Lanham Act.

What we are saying here is that we should take the Lanham Act where it provides for exceptions and says that you cannot trademark the insignia of the United States, States, municipalities, and foreign nations. We are saying we should assert federally recognized Indian tribes as another one of the categories that enjoys this same protection.

To me, it is a very straightforward amendment. I see no real basis for anyone opposing the amendment. I hope that it will be agreed to. I urge my colleagues to support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair would like to clarify that the time remaining to the proponents is 5 minutes 58 seconds, and for the opponents, 10 minutes.

Does anyone seek recognition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the time be evenly charged against the two sides, and I suggest the absence of a quorum.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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. BINGAMAN. Mr. President, I yield the remainder of my time.

Mr. GREGG. Mr. President, we yield the remainder of our time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be postponed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, we are waiting for one or two Senators to come down. I simply advise my colleagues that progress is being made. We now have two votes ordered. We have a number of amendments still pending under the unanimous consent agreement, and we are trying to work out a number of them. Hopefully, we will soon have the next amendment in order to be offered.

While we are waiting for that, though, I would like to speak on another subject. I ask unanimous consent to speak as if in morning business for 5 minutes.

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

ALAN B. SHEPARD, JR.

Mr. GREGG. Mr. President, last night Alan Shepard died. Alan Shepard is a huge figure in the lives of those of us who are in that postwar baby boom generation which went through the Sputnik experience and the early days of our space program. He is a huge figure especially for those of us who come from New Hampshire, because he was born and raised in Derry, NH, a small town. In fact, a while after he went into space, for many years, Derry sort of changed its name and called itself Space Town in honor of Alan Shepard.

He was really an extraordinary American, embodying so much of what makes our country a special place. He came from a small, rural community. It has gotten quite big. In fact, it is a city now. But when he grew up, it was still a small, rural community. He committed his life to service of this Nation and, of course, he was one of those exceptional people who was in the early test pilot program which transitioned into the early astronaut program. We have the great benefit of having another one of those exceptional people in the Senate with us in Senator GLENN.

Alan Shepard was the first to go into space as an American, and his impact on our country was extraordinary because of that. I can recall very vividly—I must have been 9 or 10 years old—that our whole class in school met in the evening in order to watch this thing called Sputnik go through the sky. And it threw a great scare into our Nation at the time because we, at that time, having come out of World War II and the Korean war, viewed ourselves as a nation of extraordinary strength and really a nation of at least scientific leadership that was unparalleled, and suddenly the Soviet Union, which was a clear and present threat of proportions which cannot even be appreciated today, had launched a satellite which made it clear we were not maybe as far ahead as we thought we were. In fact, in the area of space we were behind.

And so the commitment was made to overtake the Soviet lead in space technology, but, more importantly, to make America the preeminent space explorer of the world. That commitment was made first by President Eisenhower and followed aggressively by President Kennedy, President Johnson and President Nixon. But the personification of the success of that commitment was Alan Shepard, because not only did he go into space as the first American, but then after overcoming significant physical restrictions—he had a very severe inner ear problem

which he went back and had operated on—he went back into space and landed on the Moon. Of course, who can forget his hitting a golf ball on the Moon. I think he used a 6 iron and hit it 300 yards—almost a Tiger Woods drive.

Alan Shepard was a person who believed totally in the American dream and who lived the American dream. He was an icon of our culture and clearly a dominant figure of our time. We will miss him. In New Hampshire, we will especially miss him because we are very proud of him. We are a small State. At that time we had less than 1 million people, and here it is, with less than 1 million people, we sent the first person in space and he was from New Hampshire. Great pride.

I express my sorrow to his family and join with all Americans in thanking him for what he did for our Nation, to restore our pride in ourselves and to establish once again that we are a nation that is unique, filled with people who are unique, who, when we pull together to take on a task, no matter how daunting, such as putting a person on the Moon and putting a person in space, will always succeed.

Mr. President, I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3274

(Purpose: To authorize the local law enforcement block grant program)

Mr. GREGG. Mr. President, I send to the desk an amendment on behalf of Senator DEWINE and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. DEWINE, for himself and Mr. LEAHY, proposes an amendment numbered 3274.

Mr. GREGG. 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 printed in today's RECORD under "Amendments Submitted.")

Mr. GREGG. Mr. President, I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3274) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. 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. 3275

(Purpose: To prohibit the Administrator of the Environmental Protection Agency from implementing or enforcing the public water system treatment requirements related to the copper action level of the national primary drinking water regulations for lead and copper until certain studies are completed)

Mr. KERREY. 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 Nebraska [Mr. KERREY], for himself and Mr. HAGEL, proposes an amendment numbered 3275.

Mr. KERREY. 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 135, after line 11, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act: and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

Mr. KERREY. Mr. President, this amendment is offered by myself and my colleague from Nebraska, Senator HAGEL. We intend to talk on it for a brief period of time and then we will withdraw the amendment.

I offered this amendment in a similar fashion on the HUD and independent agencies appropriations bill. We, since that time, entered into negotiations with the Environmental Protection Agency and it is possible that the problems we have in Nebraska will be resolved. It is also possible that the issue does not get resolved. If that is the case, I want to alert my colleagues that there will be an opportunity to vote on this amendment at some point, if Senator HAGEL and I and the rest of the Nebraska delegation are not able to get satisfaction from the Environmental Protection Agency. As I said, they are attempting to work with us at this point to try to resolve this problem.

The problem simply stated is that, under the rulemaking of the Safe Drinking Water Act, there was established a lead and copper rule. Under the procedures of the Safe Drinking Water Act, these rules get reviewed every 6 years, so it is an appropriate time—it has been 7 years—an appropriate time for us to be reevaluating the science supporting the rule itself. That is essentially what we are challenging to begin with.

There is not a single city in Nebraska that has copper in excess of 1.3 milligrams in its water supply. So, you say, what is the problem? The problem is that if water sits in copper pipes overnight, the first draw on that water will produce copper in excess of 1.3 milligrams in some of our systems. Thus, our cities are being asked to invest millions of dollars to take care of the problem by removing the copper in a manner that is acceptable to the EPA.

That will become a very critical part of this issue, because the EPA tells us what is and is not acceptable to take care of a problem that, as I said, has not produced a public health problem in Nebraska. We don't have a public health problem in Nebraska. We don't have any public health people saying we believe there is a clear and present problem with copper, a problem such as exists with lead. With lead, there is a public health problem, although not in Nebraska. With copper, we have no public health problem. What we have, instead, is a scientific evaluation by EPA which has caused them to say we should not allow any more than 1.3 milligrams per liter of copper in drinking water. And as a consequence, all across the country EPA is asking cities to invest substantial amounts of money to treat and reduce the concentration of copper below 1.3 milligrams.

I have a chart here. Some statements have been made by other institutions in regard to what is a safe amount of copper, which I would like to read, just to establish that there is a significant amount of dispute on the science of this. Not a small amount of dispute, but a significant amount.

The World Health Organization has established 2 milligrams per liter as their standard for copper in drinking water. That is 60 percent higher than 1.3 milligrams per liter.

In Canada, they have declared 5.3 milligrams per day as the lowest oral dose at which local GI irritation was seen.

The National Academy of Sciences in 1977 said:

> Limited data are available on the chronic toxicity of copper. The hazard from dietary intakes of up to 5 milligrams per day appear to be quite low.

A longer statement, made in 1994 by the Centers for Disease Control in regards to a study in Nebraska—this study is currently being peer reviewed, which EPA needs to have in order to make a final determination:

> . . . at the time of the survey, people were not experiencing GI related to the level of [copper] in their drinking water, even though 51 of the selected homes had [copper] drinking water levels that were greater than two times the EPA action level the year prior to the study. . .

There is a significant amount of scientific disagreement as to what the standard ought to be. Again, we are not experiencing a public health problem. If we are experiencing a public health problem, let's get after it and deal with it. That is what the Safe Drinking Water Act is all about. If you don't have a public health problem, you should not, in my judgment, be requiring the municipalities to make an investment that produces no benefit. That is basically what we are talking about here.

The municipalities have a limited amount of money. They have to go to their taxpayers to pay for any treatments to drinking water. We go to taxpayers through the state revolving loan fund. We then provide funds to the States and the States and municipalities make the determination: How do we spend our money so as to maximize the public health in our community? The states and the municipalities are telling us that they don't see a public health problem with copper, but they are willing to try to work with the Environmental Protection Agency to solve this problem.

Mr. President, first of all, we have asked the Environmental Protection Agency to allow the National Academy of Sciences to impanel a study group to evaluate the science that underlies this standard—a peer reviewed evaluation—and come back and say, "This is our current estimate of the situation, our current estimate based upon reviewing all the science, particularly the peer-reviewed science that is out there; this is what we see the current situation to be."

Allow EPA, in short, to do what the Safe Drinking Water Act says it is supposed to do, which is to review these regulations once every 6 years. It has been 7 years. There is plenty of evidence that would indicate it is time for EPA to review this standard, including other people's evaluations, and as I said, the presence of an overwhelming fact, which is that we are not experiencing public health problems in Nebraska.

In our negotiations—Senator HAGEL, Congressmen BEREUTER, CHRISTENSEN and BARRETT—we had a meeting yesterday with EPA. We are asking EPA to empower and to contract with the National Academy of Sciences to do a study of the science underlying this rule to determine whether 1.3 milligrams per liter is reasonable. If we get a "yes" on that request, which we don't have at the moment—as I said, my colleagues may be spared the opportunity of coming down here and voting on this amendment.

There is another problem we are experiencing with EPA. Again, we talked with region 7, and we talked, as well, with Administrator Browner, and perhaps we can get true flexibility. We have asked for flexibility in dealing with this problem. I will describe for my colleagues one of the things the Nebraska department of health asked the Environmental Protection Agency for, in terms of flexibilities in implementing this rule, and the answer from EPA was no. They asked if it would be OK if the State of Nebraska paid for the removal of copper piping and copper fixtures, get rid of the copper altogether as a solution to this problem. The answer from EPA was that this is not one of the acceptable solutions that is on their list.

Eliminating the copper was not an acceptable solution to the EPA, Mr. President, nor was it acceptable to engage in a significant public health campaign to help people understand—and to ask them to flush, once a day, the water in their systems to remove the copper that leached into the water after sitting overnight in the pipes—especially in smaller communities where you have a relatively small audience. EPA was saying things like, "Well, yeah, but somebody could get up in the middle of the night and have to go to the bathroom and maybe forget and take a drink of water."

This is the sort of reason given to people to support legislation like the Safe Drinking Water Act? We want the Government to be a positive force in keeping our people safe, but when we hear rationale like this, we scratch our heads and wonder whether or not it is all worthwhile.

We seem to frequently run into this sort of inability to bring common sense to the process. I am hopeful that Administrator Browner—she was very positive yesterday—I am hoping Administrator Browner will, first of all, ask the National Academy of Sciences to do a study of the underlying science, which is overdue given the conflicting analyses we have seen; and, second, to direct region 7 to work with us to get a flexible plan that enables us, bottom line, to have our cities and our States saying to us, "We have identified a solution here; we have a means of dealing with this; here is what it is going to cost us; we are willing to make this investment."

Understand, at the community level where they are drinking the water, they are saying, "There are public health problems that are much larger than this. We don't have anyone getting sick from copper. We understand you all think we ought to be getting sick at these levels, but we are not. We are willing to work with you and willing to make an investment, but we want that investment to be justified. We want the cost to track somehow with the benefit. We want to be able to say here is the benefit we are getting with the cost of the expenditure itself."

I am pleased to inform my colleagues, at the conclusion of Senator HAGEL's and my remarks on this, we are prepared to withdraw this amendment and not put you through the process of voting on this at this time. But if we are not able to get a satisfactory answer from Administrator Browner, I inform my colleagues there will be an opportunity to vote on this amendment.

My guess is that any of you out there who have municipalities that are discussing this with the Environmental Protection Agency—I guarantee you, all you have to do is talk to your colleagues in Minnesota and ask them how it worked. They implemented the EPA plans for copper removal, and it

hasn't worked in nearly half of the 130 water systems they were forced to treat. They did everything the EPA told them to do to reduce copper levels and it didn't work. They still have the problem and are now scratching their heads and trying to figure out what they are going to do next.

Mr. President, I appreciate the indulgence of the Senator from South Carolina and the Senator from New Hampshire and other colleagues. I look forward to coming to the floor and saying that this issue is satisfactorily resolved. Administrator Browner, I believe, is making a good-faith effort, but we have a ways to go before we are certain we don't have to come back and appeal to our colleagues, who are likely experiencing similar things, to give us a change in the law that will give us time to allow these scientific studies to be reviewed, and possibly, this rule revised.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Nine-and-a-half minutes remain for the proponents. The Chair recognizes the junior Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise to support this amendment sponsored by my good friend and colleague, the senior Senator from Nebraska, Senator KERREY.

As Senator KERREY has very directly stated, this amendment is an attempt to bring some much-needed common sense—common sense, Mr. President, common sense—to the EPA regulatory process. We are not in any way attempting to amend the Safe Drinking Water Act.

I commend my colleague from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, Senator CHAFEE, for his hard work in crafting this bill over the years and having brought it up to date and focused on what is important, and that is to protect the safety of our drinking water. It is important that we be clear on this point. We are not attempting to amend the Public Works Committee's hard efforts, the Safe Drinking Water Act. No attempt is being made to amend the Safe Drinking Water Act.

What we are asking here is EPA delay the enforcement of copper regulations until the completion of scientific studies that are already underway. Regulations imposed by the EPA on copper levels in drinking water are unrealistic and will impose financial hardships on a number of communities in Nebraska. Is it too much to ask—really, is it too much to ask—that scientific studies be completed before costs are imposed? Mr. President, that is just common sense.

The town of Hastings, NE, population 23,000, will be forced to pay over $1 million in the first year to comply with these onerous regulations and $250,000 the year after that. More than 60 Nebraska water systems face similar financial burdens because of the EPA's enforcement of these copper regulations.

The most incredible part of this issue is that the EPA has not proven that there is a health risk. As my friend, Senator KERREY, said, they want to prove it; they want to tell us we have it, but they can't make the scientific link. The EPA used case studies to set these copper levels, some of which are over 40 years old, and often included only a few people. One EPA case study from 1957 refers to 15 nurses, 10 of which got sick after drinking cocktails with between 5.3 and 32 milligrams of copper—very strong scientific evidence.

Yet, a 1994 interim study conducted by the Centers for Disease Control and Prevention found that EPA's copper standard seriously exaggerated health effects in Nebraska due to water consumption. In comparison, the CDC study conducted in 1994 to examine almost 200 households in Nebraska in a controlled, scientific way, found no relationship between the copper concentrations and illness.

One of the problems in Nebraska, Mr. President, is that copper does not come from the city's water system. It comes from copper pipes—copper pipes—in individual homes. Yet only six of the homes tested, in Hastings, NE, had copper levels above the EPA standards. And for those six homes, the EPA is going to force the people of the entire town in Nebraska to spend millions of dollars to change the system.

This is folly. This is nonsense. This is one of the most clear examples of EPA zealousness that I think I have ever seen.

The State of Nebraska has attempted to make its case with the EPA but has been repeatedly dismissed. The State suggested allowing residents to let the water run in the taps for a short period of time before using water for drinking. Nebraska's Department of Health and Human Services would have used a public education program to ensure that this "flushing" method was done correctly. Residents already did this on their own and copper levels dropped to nearly zero—copper levels dropped to nearly zero—after letting the tap run for a few seconds. The State also said it would pay to replace the copper plumbing for affected households.

The attorney general of the State of Nebraska has filed a lawsuit to try to block the EPA enforcement of these regulations until we have some sound science. And the Governor, Governor Nelson, is involved.

The attitude of the EPA toward the people of Nebraska has been one of supreme arrogance. Some of my colleagues may wonder why this is such a problem in Nebraska. Why haven't they heard about this in their States?

Well, Nebraska is unique, not only because we play decent football, Mr. President, but also because we rely, almost exclusively, on groundwater for our water supplies. Because of this, some towns and cities in Nebraska do not have a central water system but a number of systems that feed into the main system.

For these towns of Nebraska, treating drinking water means treating each individual well, which drastically increases costs. And for what? The people of Nebraska do not want unsafe drinking water; of course they don't. If there was a real health risk, they would pay to have the water treated. But when the scientific evidence shows no health risk, when the EPA rejects every commonsense alternative—many of what my colleague from Nebraska talked about—what are the people of Nebraska to do? They have turned to their congressional delegation. They have turned to their Congress and asked for help.

The Constitution gives Congress the authority to decide whether or not Federal agencies can spend the money of the American taxpayers, what they spend it on, and why they spend it. Too often we have neglected this authority and let Federal agencies run right over the top of the American people, the very people who pay the bills—the taxpayers. But we don't have a voice. That is why Senator KERREY and I are on the floor today.

We are here to bring the case of the people of Nebraska to the Senate, as our colleagues are doing in the House. We have no other recourse, Mr. President. Again, we are not attempting to amend the Safe Drinking Water Act. We are asking to change the regulations so that we have some ability, some flexibility to wait until we have sound science. What an outrageous request. What an outrageous request.

Mr. President, dealing with the EPA is like wandering around in the Land of Oz, this mystical land. But we wish to pull back the curtain and get to some reality and common sense. It is my hope, as is the hope of my friend and colleague, the senior Senator from Nebraska, that our colleagues will listen to this plea and will assist us in this effort. We are grateful for an opportunity to tell our story—a real story.

Thank you. I yield the floor.

The PRESIDING OFFICER (Ms. SNOWE). Who yields time?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Madam President, I ask unanimous consent that letters in support for this amendment from the National Governors' Association, the Central Nebraska Mayor's Association, the League of Nebraska Municipalities, the city of Columbus, the city of Hastings, the village of Snyder, and the village of Fairmont be printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, July 16, 1998.

Hon. BOB KERREY,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR KERREY: We are writing to share our concerns about the lead and copper rule promulgated by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act. Communities in many states, particularly smaller communities, face substantial costs under this rule. We understand that serious questions have been raised about the rule, including the justification for the current action level, the cost effectiveness of the rule, and the replicability of the sampling procedures used under the rule. We understand that the rule may also interfere with the implementation of other pending regulations, such as the Disinfectant/Disinfection Byproducts Rule. Such interference could have serious adverse health consequences.

In the face of these uncertainties, we urge you to take steps to ensure that the lead and copper rule is based on the best available, peer-reviewed science and is subject to risk assessment, comparative risk assessment, and risk management techniques that include analyses of costs and benefits. The Governors have recommended that for all regulations with a substantial potential impact on public health or the economy, the regulatory agency should be required to certify that the regulation is likely to produce benefits that justify the costs. In determining that the benefits justify the costs, the agency should consider the full scope of qualitative and quantitative costs and benefits, exercise sound judgment, use realistic assumptions, weigh all reasonable alternatives, and strike an appropriate balance between costs and benefits.

We would appreciate your assistance in ensuring that EPA satisfies these recommendations in the case of the lead and copper rule. Thank you for your consideration of this important issue.

Sincerely,

E. BENJAMIN NELSON,
Chair, Committee on Natural Resources.
MARC RACICOT,
Vice Chair, Committee on Natural Resources.

CENTRAL NEBRASKA MAYOR'S ASSOCIATION,
June 8, 1998.

Hon. ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: We are writing to convey to you the solid support of four major Nebraska communities for the recent efforts by the Nebraska congressional delegation regarding the lead and copper rule designation in the Safe Drinking Water Act. In an April 24, 1998 letter to USEPA, Nebraska's congressional delegation unanimously urged bringing common sense and good scientific evidence to the copper rule. We support that position and encourage you to continue pressing this issue in our behalf, as well as that of many other Nebraska communities.

As you are well aware, epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. Incredibly, the level established by USEPA is less than the recommended daily minimum amount of cooper for human consumption, established by another federal agency. What is more unnerving, is the fact that cities are being mandated to make significant changes to their water delivery systems, not because of the source of supply, or because of the water systems themselves, but because of the copper water services in private homes. This of course can be solved by running the water for a few seconds each morning before taking any water for drinking purposes, which, we suspect, is a universal practice. Viewed another way, does USEPA have any evidence whatsoever that anyone is consuming water with "unaccepted levels" of copper in it?

We believe that USEPA has strayed from its original mandate of ensuring a clean environment. Instead, communities throughout the country are confronted with the hypertechnical wanderings of a bureaucratic juggernaut, promulgating unreasonably stringent environmental standards that lack good scientific evidence, ignore practical testing procedures, and are totally devoid of any common sense.

It is particularly vexing to deal with unreasonable standards which will cost Nebraskans millions of dollars while providing no apparent benefit. Cities are asked by their populations to provide essential services that enhance the quality of life of their citizens. Dollars are tight and public scrutiny is high. The waste of time, effort, and precious dollars on misguided notions like the copper rule for drinking water, is totally unacceptable. Please continue and intensify your efforts to bring good scientific evidence to these and other rules, regulations and standards of USEPA.

Thank you again for your interest in this matter.

Sincerely,

KEN GRADY,
Mayor of Grand Island.
JAMES D. WHITAKER,
Mayor of North Platte.
J. PHILLIP ODOM,
Mayor of Hastings.
PETER S.———,
Mayor of Kearney.

LEAGUE OF NEBRASKA MUNICIPALITIES,
Lincoln, NE, July 17, 1998.

Senator BOB KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: Thanks for your attempted heroics late (verrrrry late) last night on behalf of Nebraska municipal water distribution systems. The staff at the League of Nebraska municipalities informed me that you used considerable debating skills and knowledge of procedure to try to amend a measure to give Nebraskans some relief from the EPA Copper Rule. It is not that often anymore that you get to see good debating skills put to use in legislative process, but you apparently made Nebraska look good.

Again, I appreciate all the work that you and your staff have put in on this issue. As you know, and very effectively communicated, compliance with this regulation will cost Nebraskans millions of dollars for little or no health benefit. Nebraska municipal officials are not against the protection of public health. They live in the very communities that they serve. But meeting the "at the tap-first draw" copper standard seems to be throwing money away.

Sincerely,

JIM VAN MARTER,
League President,
Mayor, Holdrege, Nebraska.

COLUMBUS, NE,
July 10, 1998.

Hon. ROBERT KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERREY: On behalf of the City of Columbus, I would like to lend our support to your amendment to place a prohibition on the enforcement of the Copper Ruling by the Environmental Protection Agency (EPA).

From all indications, this ruling appears unsupported by scientific evidence. If this should be enforced, it will cost our city thousands of dollars.

I ask that you give us every consideration in fighting this ruling. We appreciate your leadership in helping us concerning this matter.

Sincerely,

GARY GIEBELHAUS,
Mayor.

HASTINGS, NE,
July 10, 1998.

Re Copper regulations.

Hon. TRENT LOTT,
Rayburn Building,
Washington, DC.

DEAR SENATOR LOTT: I am writing to you on behalf of the citizens and water rate payers of the City of Hastings, Nebraska, an agricultural community of 22,000 people located in the south central part of the state. The drinking water system for our community is operated by our local Board of Public Works. Tests of drinking water (taken in private homes) indicate that the levels of copper in the water barely exceeds the action level for copper established pursuant to the 1986 Safe Drinking Water Act. The State of Nebraska has issued an order to the City, directing implementation of costly "optimal corrosion control treatment".

USEPA's active level for copper in drinking water is based upon two outdated (one is at least 40 years old) and unreliable studies. Recent epidemiological evidence generated by the Centers for Disease Control indicates that the drinking water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. It is most noteworthy that the level established by USEPA is less than the federally recommended daily minimum amount of copper for human consumption. In fact, the amount of copper in a multiple vitamin tablet exceeds the USEPA's action level.

Senator, we, and many other communities around the country, are being directed by government to expand millions of dollars on our water systems in just a few short years, with literally no reasonable expectation of benefit to public health. This makes absolutely no sense at all. We would hope that you agree that it is foolish to act on poor information, when good information is readily attainable. We need your help. (Our water department, which operates at a loss most years, estimates that installation of the required modifications will cost $1,000,000 initially, with an added operations expense of approximately $250,000 per year.)

Nebraska Senator Robert Kerrey and Chuck Hagel have introduced legislation which would prohibit USEPA's implementation or enforcement of this rule until more

reliable studies can be completed and evaluated. The expected time frame for obtaining this much more reliable information is less than 30 months.

We ask that you join our Nebraska Delegation in its efforts to gain a reprieve which makes eminent sense. In our estimation, there are no risks associated with taking the time to get the facts straight. We do not know of even one copper related illness, belly ache or sniffle in the more than one hundred year history of this county. I can tell you without fear of contradiction, that if we had the one million dollars and more to spend, the public health and quality of life in our community would be much better served by spending that money on fire trucks and police cars.

Public health and safety are the top priority of Hastings city government. We, and many other units of local government are on the front line. But we have precious few resources and dollars for this effort. Please help prevent the bureaucratic misdirection of our dollars and resources, so that we can do what is best for our community.

You can undoubtedly discern from the tone of this letter, that I am already convinced that further studies will show that the action level for copper is unreasonably low. My limited review of available data, and information provided by those knowledgeable on the matter, unanimously support this conviction. Please rest assured, however, that Hastings will expeditiously comply with whatever standard emanates from the more current studies. We have faith in good science. Recent history shows that Congress shares that faith.

Thank you for your interest in this matter.

Sincerely,

J. PHILLIP ODOM,
Mayor of Hastings.

SNYDER, NE,
July 14, 1998.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: I am sending this letter to inform you of the costs of a small town to comply with the copper rule. The population of the Village of Snyder is 280, and we have a water budget of $31,000.00 for this fiscal year. Snyder also has two (2) wells, according to our engineer our capital expenses would be $30,000.00 for building modification and equipment purchases. The ongoing operational costs including chemicals, training, administrative, and repairs/maintenance would cost $12,000.00. The first year would cost the Village $42,000.00, and require us to budget an additional $12,000.00 per year. If we have to use bonds to pay for the capital costs, there will be additional expenses.

This does not include the cost of a corrosion control study as required by the administrative order. Our engineer estimated between $3,000.00 and $3,500.00, or the quarterly notices that we have to publish. There is also the cost of additional water testing that we are required to perform.

Although, the easy answer is to raise rates it is not always the best one.

I would like to thank you for your efforts to help us.

I am enclosing a separate cost breakdown.

Sincerely,

JOEL D. HUNKE,
Chairperson,
Village Board of Trustees.

Enclosure.

Village of Snyder estimated cost for compliance lead and copper administrative order

Capital expenses:	
1. Modify well house buildings at $10,000/building	$20,000
2. Purchase equipment at $5,000/well	10,000
Total capital expenses	$30,000
Ongoing operational costs:	
1. Chemicals at $0.10/1,000 gallons of water 1997 production was 44,675,000 gallons	4,468
2. Monitoring, testing, training, administrative $3,000/yr for 1st well and $2,500/yr for 2nd well	5,500
3. Repairs and Maintenance $1,000/well/year	2,000
Total operational costs	11,968
Grand total	41,968

FAIRMONT, NE,
July 13, 1998.

Re Lead and copper ruling.

Senator ROBERT KERREY,
Hart Building,
Washington, DC.

DEAR SENATOR KERREY: The Fairmont Village Board of Trustees would like to thank you for your efforts to assist municipal water systems in Nebraska which are currently under Administrative Order for violation of copper standards in drinking water.

I am enclosing a letter from our engineers pertaining to the costs if Fairmont would have to comply with the Administrative Order. In review it would cost the village $45,000 for the capital outlay and approximately $18,000 annually for ongoing operations costs.

Our village board believes that the copper action level is excessively stringent, has an excessive safety margin and is not supported by sound scientific data and studies. The ruling requires the village to expend public funds for monitoring and treatment of public water supply system of the Village in order to correct contaminations which occur within the service lines and plumbing systems owned by private persons or entities, and our board does not feel that public funds should be used in this manner.

Thank you for your assistance in this matter and if you need additional information, please contact our office or the League of Nebr. Municipalities.

Sincerely,

DAVID R. SEGGERMAN,
Chairperson, Fairmont Village Board of Trustees.

Enclosure.

JOHNSON ERICKSON O'BRIEN,
Wahoo, NE, July 8, 1998.

Re Lead and copper rule estimated cost for compliance.

LINDA CARROLL,
Clerk,
Fairmont, NE.

DEAR LINDA: This letter is in response to recent requests that we have gotten regarding the cost of compliance with the Lead and Copper Rule.

Every case will be different, but I believe that the following will provide a good general guideline for determining how much it will cost to deal with the Lead and Copper Rule.

C. In general, most well buildings are not set up to provide adequate space or provide an appropriate environment for use as a chemical feed room. Depending on the building site conditions and the layout, we believe it is likely that the well building will need to be expanded and rough cost for the building modifications would be $10,000 per well (POE).

D. The type of chemical treatment that will be necessary for each well will depend on the detailed chemical analyses of the well water. However, for planning purposes, we would estimate that the cost for chemical feed equipment and electrical modifications needed could be approximately $5,000/well (POE) and the raw cost of chemical would be approximately 10¢/1,000 gallons of water pumped.

E. In addition, to the chemical cost, it would be anticipated that considerable additional cost/time will be involved in the daily monitoring of the chemical feed systems, testing, and administrative time involved in maintaining records, etc. It would appear reasonable to assume that the costs could be around $3,000/yr. for the first well, and maybe $2,500 for each added well.

F. Also, I would expect that repairs and maintenance costs could be $1,000/well/year to keep pumps and controls updated/operational.

In conclusion, we believe that costs for Lead and Copper Rule compliance would be:

A. Capital Expenditure Costs
1. Building Modification: $10,000/well (POE)
2. Equipment Costs: $5,000/well (POE)
Total: $15,000/well (POE)

B. Ongoing Operational Costs
1. Chemical Costs: 10¢/1,000 gal. pumped
2. Operational/Administrative Costs: $3,000/yr. 1st well (POE) $2,500/yr. each added well (POE)
3. Repairs/Maintenance: $1,000/yr./well (POE)

If you have any questions regarding this letter or if you need anything further from us, please feel free to advise.

Sincerely,

RON BOTORFF.

A. Village of Fairmont has 3 wells @$15,000.00=$45,000.00 Capital set up.

B. Village of Fairmont 1997 water use 75,000,000 gallons÷1,000 @10¢=7,500.00 Chemical Cost.

Operation/Admin—1 well @$3,000.00+2 wells @$2,500.00=8,000.00 Oper/Admin.

Repairs & Maint. 3 wells @$1,000.00=3,000.00 Rep. & Maint.

In review, the capital expenditure for the Village of Fairmont would be approximately $45,000.00 and annual expenditures for ongoing operational costs would be approximately $18,500.

Mr. KERREY. Madam President, I am prepared to yield back the remainder of my time. I do not know if—Senator CHAFEE is probably not going to speak because I told him we would withdraw the amendment.

I say to the Senator from New Hampshire, if you don't want to take the additional 10 minutes, I will ask unanimous consent to withdraw the amendment.

Mr. GREGG. I have no objection to the Senator from Nebraska withdrawing the amendment.

Mr. KERREY. Do we need to yield back time in opposition?

The PRESIDING OFFICER. Yes, the Senator should yield back his time.

Mr. GREGG. I will yield back our time.

AMENDMENT NO. 3275 WITHDRAWN

Mr. KERREY. I ask unanimous consent that the amendment offered by myself and Senator HAGEL be withdrawn.

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

The amendment (No. 3275) was withdrawn.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. What is the parliamentary status now?

The PRESIDING OFFICER. Amendments are in order.

AMENDMENT NO. 3276

(Purpose: To condition the availability of funds for United States diplomatic and consular posts in Vietnam)

Mr. KERRY. Madam President, therefore, I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator JOHN MCCAIN, and Senator BOB KERREY.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself, Mr. MCCAIN and Mr. KERREY, proposes an amendment numbered 3276.

Mr. KERRY. I ask that reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

Mr. KERRY. Madam President, are we operating under a time agreement on this?

The PRESIDING OFFICER. Twenty minutes evenly divided.

Mr. KERRY. Twenty minutes equally divided.

Madam President, I yield myself such time as I may use. I ask that the Chair let me know when I have used 7 minutes.

Madam President, for the past 3 years we have had language in the appropriations bill that prohibits funding for the expansion of our diplomatic presence in Vietnam unless the President of the United States certifies that Vietnam is cooperating on the POW/MIA issue.

The fact is that the standard currently in law requires a tough certification by the President. The President has to certify that Vietnam is fully cooperating. The President has to certify that in good faith Vietnam is cooperating in four specific areas: resolving discrepancy cases, live sightings and field activities, remains recovery and repatriation, providing documents, and assisting in the trilateral investigations with Laos.

That is a fair and a sensible standard, Madam President. However, section 405 of the pending bill that has been put into the bill creates a whole new standard. It creates a standard of significant increased capacity for subjectivity and for distortion and, frankly, for an unreasonableness, which, if adopted, would set back our relationship and our capacity to build the progress and relationship not just on POW/MIA but on human rights and other issues where we have been making progress.

The amendment that I offer with Senator MCCAIN from Arizona and Senator BOB KERREY from Nebraska would strike section 405, replacing it with the language in the current law that requires a certification from the President, and requires the same standard of certification that we have had over the course of the last years.

In our judgment, section 405 will not only undo much of the cooperation that we have but could conceivably set back our capacity to be able to find answers on the POW/MIA issue. We believe it would undermine the policy of normalization and it would create an unreasonable certification standard in an effort to prevent the expansion of our diplomatic presence and, thus, our relationship.

Current law requires the President to certify whether or not Vietnam is cooperating in good faith. I want the Senate to know that the President made that certification on March 4 of this year, as he has for the past 2 years.

Section 405, however, in the legislation that we seek to strike, incorporates a standard that requires the President to somehow say that they are fully forthcoming, fully cooperating in good faith, and the words "fully forthcoming" present all kinds of complications about what is possible to give, what is not possible, what documents somebody may have, whether or not it is possible to give them, and raises issues that the POW/MIA committee and those who have been involved in this issue for a long period of time have argued for some period of time and resolve with the language that is currently in the law.

Over the many years that I have been involved in this issue, we have always had a struggle over this central question of what they have, what they don't have, who may have it, who has control of it, and if you get caught in the total subjectivity of a standard that no one in the intelligence community or elsewhere believes they can possibly meet, all we do is create a mischief in the process.

There is no question that we need to keep pressing for documents. We are. We just had a whole new slug of documents turned over that we are in the process of translating. We discovered new items from many of these unilateral turnovers of documents. The point is, they are happening because there is a cooperative effort, because we are engaged in marching down a road together in order to try to assert the truth here.

I think we also have to recognize that just as we deem certain documents pertaining to the military and to our country's national security as being classifiable or sensitive, so do they. We may not view it the same way, but clearly they are going to present, and their agencies—whether the defense agency, the interior agency—will argue that one document or another represents a security risk. So we have to work through the process of that. If we hold ourselves accountable to a standard where we are subject to some agency or bureaucrat being less than forthcoming in that regard about a document we don't even know they have, it seems to me we are creating an impossible situation and an impossible standard.

In addition to that, section 405 also adds other new conditions to the process. It requires Vietnam to resolve hearsay reports which pertain to the possible or confirmed prisoner of war/missing in action. Apart from the question of how anyone resolves a hearsay report, this requirement would add an enormous burden to both the American and Vietnamese teams, who are on the ground, who are pursuing nonhearsay

reports. They are already tasked on a very clear schedule of trying to determine every single nonhearsay report, absolutely certain evidence they have, which requires them to go out into the field, interview, dig, do a whole host of other very time-consuming efforts. To suggest that every single hearsay report has got to be resolved to the exclusion of the confirmed reports that they are already pursuing is to, again, raise this to a standard of absurdity.

The fact is, we have made enormous progress on the POW/MIA issue precisely because of Vietnamese cooperation. In the last 5 years, American and Vietnamese teams have concluded 30 joint field activities in Vietnam; 233 sets of remains have been repatriated, and 97 have been identified.

The PRESIDING OFFICER. The Senator has used 7 minutes.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. It is my understanding I have 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. SMITH of New Hampshire. I yield myself 7 minutes at this point.

I rise to support the committee language that is in the bill before us with respect to Vietnam. I urge my colleagues on both sides of the aisle to listen carefully to the debate between myself and my colleague from Massachusetts.

It seems that we can depend on three things anymore in America—death, taxes, and the fact that Senators KERRY and MCCAIN will somehow oppose any language that I try to support in regard to the POW/MIA issue.

Senator KERRY said that this is not workable, that the term "fully forthcoming" is not workable. Of course it is workable. It is workable because the language says that the President's judgment, the President's own judgment, is based on information available to the U.S. Government. There is nothing unworkable about that language at all. It is very workable. The President has continued to certify the very language that the Senator from Massachusetts wants to revert back to, which was language that I helped to write and put in the bill last year. We are simply upgrading it a little bit. That is not anything to be concerned about. The President still does the certification. It is his judgment. No one is changing that. I might not agree with the President's judgment from time to time, but he has the right to make that judgment under the law. That is the issue here.

I hope the Senators and their staffs who are monitoring this debate will look at section 405 to see what the Senator from Massachusetts is striking—it is found on page 96 of the committee bill—because it is reasonable. I think most Senators will resist the effort to strike it. It is reasonable.

Senator GREGG and the committee support this language. The committee language continues a certification process that was begun in 1995 when the President established full diplomatic relations with Vietnam. It has continued, through this year, when the President issued his latest certification in March. Now, whether or not we agree or disagree with the President's certification is not the issue. I happen to disagree. I didn't believe he should have certified based on the evidence. But he did, and he has the right to do that under the law.

What the committee has done is to further modify the language in an appropriate manner based on developments and communications from the executive branch over the last year. Each time, in the end, the President has complied with the certification process. I have no doubt he will do it this time. In fact, let me refer to the President's own words when he issued the most recent certification in March of this year.

In making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

That is the President. I have that document right here, signed by the President of the United States.

I ask unanimous consent this document be printed in the RECORD.

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

[Presidential Determination No. 98-16]

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Vietnamese Cooperation in Accounting for United States Prisoners of War and Missing in Action (POW/MIA).

As provided under section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, Public Law 105-119, I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans unaccounted for as a result of the Vietnam War:

(1) resolving discrepancy cases, live sightings, and field activities;

(2) recovering and repatriating American remains;

(3) accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs; and

(4) providing further assistance in implementing trilateral investigations with Laos.

I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information, and fulfilling their responsibilities as set forth in subsection (B) of section 609, and information pertaining to this accounting is being made available to immediate family members in compliance with 50 U.S.C. 435 note.

I have been advised by the Department of Justice and believe that section 609 is unconstitutional because it purports to use a condition on appropriations as a means to direct my execution of responsibilities that the Constitution commits exclusively to the President. I am providing this determination as a matter of comity, while reserving the position that the condition enacted in section 609 is unconstitutional.

In making this determination I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results we have attained as a result.

Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the Federal Register.

WILLIAM J. CLINTON.

Mr. SMITH of New Hampshire. For the Senator from Massachusetts and others now to basically prevent the committee from updating the language based on the President's own words, and based on the words of Sandy Berger and others, sends a terrible message, a message that I simply do not understand, for the life of me, why we have to fight this battle day in and day out, year in and year out, on the floor of the Senate. There is nothing wrong with this language, I say to my colleague, with all respect. The President still has the right to certify. And he does in spite of the fact that I disagree, many times, with his reasoning for the certification.

To prevent the committee from updating this language sends, I think, a terrible message to the Government of Vietnam: It is OK, do whatever you want. Go ahead, provide us documents, don't provide us documents; provide us access, don't provide us access, it doesn't matter. The families of 2,000-plus American service personnel still unaccounted for, don't worry about it. Our Nation's veterans, we no longer attach the same priorities to the POW/MIA effort in our development of relations with Vietnam which we had in the last 3 years. Don't worry about that. Let's go ahead, pursue lines of trade, sell oil, buy oil, whatever. Set up a full diplomatic mission. Don't worry about these things. Don't worry about POW/MIA. That is a side issue that is not really important.

That is reason alone for the Senators and my colleagues to table this amendment. Don't send this kind of message to the families. God knows they have been through enough. They support the

language in the committee bill. That should be enough right there. These are the people who have suffered. It hasn't been Senator SMITH; it hasn't been others on the Senate floor—well, in some cases, there has been great suffering by some of my colleagues in the Vietnam war. But it is the families of the missing who want this message. We should do it for them, if for no other reason. They have been in touch with me as recently as this morning. They passionately object to what the Senator from Massachusetts is trying to do. They have told me that.

I ask unanimous consent that their statements be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

Mr. SMITH of New Hampshire. I have statements from the League of Families, the Alliance of Families, from 70 former POWs, from major veterans groups, including the American Legion. And I know that others support what we are doing, like the National Vietnam Veterans Coalition, and many others support the language and support the committee process.

So I hope that we will defeat this effort.

EXHIBIT 1

NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA,
Washington DC, July 23, 1998.

Hon. BOB SMITH,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: The POW/MIA families strongly support the language currently in the Commerce, State, Justice appropriations bill as the best way to motivate the Socialist Republic of Vietnam government to account for Americans still missing from the Vietnam War.

The League is not surprised that the Clinton Administration, faced with another Congressional certification requirement, prefers broad language that is politically easier to finesse, than specific criteria that must be met. However, at the League's 29th Annual Meeting, U.S. Ambassador to Vietnam, the Honorable Douglas "Pete" Peterson, expressed frustration that the language was too broad, requiring either certification of full cooperation or nothing, leaving no room for incremental judgments.

The League's position is based upon past and current official assessments of what Vietnam can do unilaterally to account for missing Americans. Unilateral actions do not simply mean support for joint field operations, a necessary process in the longer term, but steps by the government of Vietnam to locate and return identifiable remains and provide relevant documents that are still being withheld.

Congress has the ability to stand behind those who serve—past, present and future—by retaining the language in the Committee's bill. Efforts by Senators John Kerry and John McCain to remove this language may be well-intended, but are illogical. There is no risk that Vietnam will halt bilateral POW/MIA cooperation and risk achieving their priority mission of MFN. By retaining the Committee's language, Congress can signal it recognizes that more can and should be done by Vietnam on this issue of stated highest national priority to the Clinton Administration and understandable importance to the American people.

Please stand with the POW/MIA families and America's veterans and oppose the Kerry/McCain amendment to remove relevant POW/MIA language.

Respectfully,

ANN MILLS GRIFFITHS,
Executive Director.

NATIONAL ALLIANCE OF FAMILIES,
Bellevue, WA, July 21, 1998.

Hon. ROBERT SMITH,
Dirksen Building,
Washington, DC.

DEAR SENATOR SMITH: The membership of the National Alliance of Families strongly opposes any effort to weaken the Committee's language which is already in the Commerce, Justice, and State, the Judiciary Appropriations Bill No. S.2260 for the fiscal year 1999 in respect to the POW/MIA Accounting (Sec. 405).

We support your efforts on behalf of our loved ones who still remain Prisoner of War and/or Missing in Action from the Vietnam War.

Thank you for your generous and strong dedication to those men who have served their Country these many years.

Sincerely,

DOLORES APODACA ALFOND,
National Chairperson.

AN OPEN LETTER TO PRESIDENT CLINTON FROM FORMER U.S. POWS

AMERICAN DEFENSE INSTITUTE,
Alexandria, VA, July 10, 1995.

The Honorable WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As former U.S. Prisoners of war during the Vietnam Conflict, we are writing to request you not to establish normal diplomatic relations with Vietnam until you can certify that there has been full disclosure and cooperation by Hanoi on the POW/MIA issue. While we appreciate Vietnam's support for U.S. crash site recovery and archival research efforts, we know firsthand Vietnam's ability to withhold critical information while giving the appearance of cooperation. We were all subjected to such propaganda activity during the war, and we would be the least surprised if Hanoi was continuing to use similar tactics in its dealings with the United States.

Of particular concern to us are the several hundred POW/MIA cases involving our fellow servicemen who were captured or lost in enemy-controlled areas during the war, yet they still have not been accounted for by Vietnam. We understand that much of the fragmentary information provided by Vietnamese officials to date indicates they could do more to resolve these cases.

Some of our fellow servicemen became missing during the same incidents which we survived. They have not been accounted for. Some were captured and never heard from again. They have not been accounted for. Some were known to have been held in captivity for several years and their ultimate fate has still not been satisfactorily resolved. They have not been accounted for. Still others were known to have died in captivity, yet their remains have not been repatriated to the United States. They have not been accounted for.

Finally, we remain deeply concerned with reports from U.S. and Russian intelligence sources that maintain several hundred unidentified American POWs were held separately from us during the war, in both Laos and Vietnam, and were not released by Hanoi during Operation Homecoming in 1973. Many of these reports have yet to be fully investigated.

America deserves straightforward answers if Vietnam really wants normalized diplomatic and economic relations. If Vietnam truly has nothing to hide on the POW/MIA issue, then why have they not released their wartime politburo and prison records on American POWs and MIAs? Why have they not fully disclosed other military records on POWs and MIAs?

We would only be compounding a national tragedy if we normalized relations with Hanoi before you, as Commander in Chief, can tell us Hanoi is being fully forthcoming in accounting for our missing comrades.

Perhaps more than any other group of Americans, we want to put the war behind us. But it must be done in an honorable way. We, therefore, ask you to send a clear message to Hanoi that America expects full cooperation and disclosure on American POWs and MIAs before agreeing to establish diplomatic and special trading privileges with Vietnam.

Sincerely,

John Peter Flynn, Lt Gen, USAF (ret).
Robinson Risner, Brig Gen, USAF (ret).
Sam Johnson, Member of Congress.
Eugene "Red" McDaniel, CAPT, USN (ret).
John A. Alpers, Lt Col, USAF (ret).
William J. Baugh, Col, USAF (ret).
Adkins, C. Speed, MAJ, USA (ret).
F.C. Baldock, CDR, USN (ret).
Carroll Beeler, CAPT, USN (ret).
Terry L. Boyer, Lt Col, USAF (ret).
Cole Black, CAPT, USN (ret).
Paul G. Brown, LtCol, USMC (ret).
David J. Carey, CAPT, USN (ret).
John D. Burns, CAPT, USN (ret).
James V. DiBernado, LtCol, USMC (ret).
F.A.W. Franke, CAPT, USN (ret).
Wayne Goodermote, CAPT, USN (ret).
Jay R. Jensen, Lt Col, USAF (ret).
James M. Hickerson, CAPT, USN (ret).
James F. Young, Col, USAF (ret).
J. Charles Plumb, CAPT, USN (ret).
Larry Friese, CDR, USN (ret).
Julius Jayroe, Col, USAF (ret).
Bruce Seeber, Col, USAF (ret).
Konrad Trautman, Col, USAF (ret).
Lawrence Barbay, Lt Col, USAF (ret).
Ron Bliss, Capt, USAF (ret).
Arthur Burer, Col, USAF (ret).
James O. Hivner, Col, USAF (ret).
Gordon A. Larson, Col, USAF (ret).
Robert Lewis, MSgt, USAF (ret).
James L. Lamar, Col, USAF (ret).
Armand J. Myers, Col, USAF (ret).
Terry Uyeyama, Col, USAF (ret).
Richard D. Vogel, Col, USAF (ret).
Ted Guy, Col, USAF (ret).
Paul E. Galanti, CDR, USN (ret).
Laird Guttersen, Col, USAF (ret).
Lawrence J. Stark, Civ.
Michael D. Benge, Civ.
Marion A. Marshall, Lt Col, USAF (ret).
Richard D. Mullen, CAPT, USN (ret).
Philip E. Smith, Lt Col, USAF (ret).
William Stark, CAPT, USN (ret).
David F. Allwine, MSgt, USAF (ret).
Bob Barrett, Col, USAF (ret).
Jack W. Bomar, Col, USAF (ret).
Larry J. Chesley, Lt Col, USAF (ret).
C.D. Rico, CDR, USN (ret).
Robert L. Stirm, Col, USAF (ret).
Bernard Talley, Col, USAF (ret).
Paul Montague, Civ.
Leo Thorsness, Col, USAF (ret).

Robert Lerseth, CAPT, USN (ret).
Ray A. Vodhen, CAPT, USN (ret).
Richard G. Tangeman, CAPT, USN (ret).
John Pitchford, Col, USAF (ret).
Steven Long, Col, USAF (ret).
Brian Woods, CAPT, USN (ret).
Dale Osborne, CAPT, USN (ret).
Ralph Galati, Maj, USAF (ret).
Ronald M. Lebert, Lt Col, USAF (ret).
Harry T. Jenkins, CAPT, USN (ret).
John C. Ensch, CAPT, USN (ret).
Render Crayton, CAPT, USN (ret).
Henry James Bedinger, CDR, USN (ret).
Brian D. Woods, CAPT, USN (ret).
Read B. Mecleary, CAPT, USN (ret).
Ted Stier, CDR, USN (ret).
James L. Hutton, CAPT, USN (ret).
John H. Wendell, Lt Col, USAF (ret).
John W. Clark, Col, USAF (ret).
Carl B. Crumpler, Col, USAF (ret).
Verlyne W. Daniels, CAPT, USN (ret).
Roger D. Ingvalson, Col, USAF (ret).

THE AMERICAN LEGION,
Washington, DC, September 18, 1997.

Hon. JUDD GREGG,
Chairman, Subcommittee on Commerce, Justice, State, and Judiciary, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: The American Legion urges you and your colleagues to retain in conference the Senate-passed language on the POW/MIA Issue and U.S. relations with Vietnam (Sec. 406) in the Commerce, Justice, State, and Judiciary Appropriations bill for the Fiscal Year beginning October 1, 1997.

As you know, Section 406 states no funds will be made available for U.S. diplomacy with Vietnam, beyond what existed prior to July 11, 1995, until President Clinton certifies to Congress that Vietnam is "fully cooperating" on the POW/MIA issue based on a "formal assessment of all information available to the U.S. Government."

This new certification will be critical in view of the Senate's findings this past April, during the debate that took place during Pete Peterson's confirmation hearing as Ambassador to Vietnam. Most importantly, The President's certification last year was "seriously flawed" and not the result of a careful and thorough analysis of the facts.

Section 406 is vital to letting communist Vietnam know that their full cooperation, which includes unilateral cooperation, in accounting for our missing and captured personnel from the Vietnam War is still a precondition to full normalization of relations.

At The American Legion's 79th National Convention earlier this month, our delegates unanimously reaffirmed our policy that insists on the fullest cooperation before any further favorable actions towards Vietnam be taken.

Again, we urge you in the strongest possible terms, to retain the Senate-passed language on the POW/MIA issue.

Thank you for your continuing cooperation and support.

ANTHONY G. JORDAN,
National Commander.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. SMITH of New Hampshire. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Madam President, I yield myself 2 minutes.

Senator MCCAIN is chairing a committee; otherwise, he would be here. Senator HAGEL also wanted to speak in favor of my amendment, but he had to go away for a moment. I don't know if he will return in time.

Let me say to colleagues that for the families and for the legitimate concerns of all those groups that want to make sure that this process is working properly, they can look with pride to the fact that we are engaged in the most expensive, most thorough, most effective, most extraordinary and comprehensive effort to provide for the accounting of the missing in the history of human warfare.

No country has ever before, in all of human history, gone to the lengths that we have gone to, to try to account for our missing and our lost in the course of a war. That is what we are doing today. There is, in the current law, a requirement that the President certify that, based upon all information available to the U.S. Government, that Vietnam is fully cooperating in good faith with the United States in resolving discrepancy cases, live sightings, field activities, recovering and repatriating American remains, accelerating efforts to help provide documents that would lead to the fullest possible accounting of prisoners of war and the missing in action, providing further assistance in implementing trilateral investigations with Laos, and recovering all archival eyewitness accounts, and so forth.

That is the current law. What the Senator from New Hampshire seeks to do is place a whole lot of new hoops in, some of which can't be met because the intelligence community itself is divided over it. Then they have a whole new way of arguing, saying that, gee, we are not doing the job. There is even a requirement in his section 405 about a specific document that has to be resolved, the main intelligence directorate and ministry of defense of the Soviet Union document of 1971. This has been analyzed extensively by our intelligence community. Let me just say that document has been found to be in error, inaccurate. And to have us now argue about it is a waste of the time, I think, of the standard.

I reserve the remainder of my time.

Mr. SMITH of New Hampshire. Madam President, with all due respect of my colleague, on that last point, this is a document entitled the Comprehensive Report of the U.S.-Russia Joint Commission on POWs/MIAs, of which Senator John KERRY is a member, and I am, as well as others. In that document, which Senator KERRY signed, is this phrase:

> There is debate within the U.S. side of the commission as to whether the numbers cited in these reports are plausible. The U.S. Government has concluded that there probably is more information in Vietnamese party and military archives that could shed light on these documents. But, to date, such information has not been provided by the Vietnamese government.

That is an absolute statement signed by Senator KERRY, which goes exactly in the opposite direction of what the Senator is trying to do by striking the language. It says simply that the Vietnamese have not provided all of the information. This commission says so and it was signed by the Senator himself. So I do not understand how the Senator can sign one document and come to the floor and try to strike all the language that supports the document that he signed. I think the whole matter is just subject to great criticism in that regard alone.

In addition, I have a letter from Sandy Berger, the President's National Security Adviser, that says, "Vietnam's full faith efforts in cooperating on this issue are essential to the development of the relationship."

We have that in our language. In addition, there is another letter from Mr. Berger, dated April 10, 1997. The previous one was August 15, 1997. The same point: We will continue efforts already underway to require additional information on these documents, the 735 document, including access to this document, and on and on and on—all of these relating directly to the language.

In addition, the Senator from Arizona, who I understand is supporting the Senator from Massachusetts, said on the floor of the Senate on April 10, Madam President:

> I thank [the Senator from New Hampshire] because if it had not been for him, this very important letter from the White House would not have come to our leader signed by Sandy Berger, Assistant to the President for National Security Affairs. It lays out a very important set of priorities for further actions that need to be taken by the United States and by the Vietnamese so that we can finally put this difficult chapter behind us.

That is exactly what we are doing in this language, laying out this series of priorities. It is updating it and laying out the priorities. I urge my colleagues to simply look at 405 and respect the wishes of the families and veterans groups and others, and please keep the language in there for the sake of those people who have suffered so much throughout this process.

I yield the floor.

Mr. KERRY. Madam President, I yield myself the balance of time. My colleagues know there is nobody in the U.S. Senate more committed to finding out what happened than our colleague, Senator JOHN MCCAIN, who spent 6 years-plus of his life in a prison in Vietnam. Senator MCCAIN understands very clearly, as others of us do, that a few years ago, there were 196 individuals on the list of last known alive in Vietnam. In the last few years, because of our efforts, we have determined the fate for all but 43 of those 196. The Defense Department is opposed to the language the Senator from New Hampshire has put in the bill because they say it will set back our effort to get the answers on the other 43. The administration is opposed to it. I believe that, in good conscience, the Senate

should be opposed to that language because it will set back our efforts and set back our progress.

Mr. GREGG. Has all time expired?

The PRESIDING OFFICER. Yes.

Mr. GREGG. I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

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

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

Mr. GREGG. Madam President, I move to table the Kerry amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur in sequence at a later time.

Who seeks recognition?

Mr. GREGG. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3277, 3278, AND 3279, EN BLOC

Mr. GREGG. Madam President, I send amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG), for himself and Mr. HOLLINGS, proposes amendments numbered 3277, 3278, and 3279 en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 3277

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: "*Provided further*, That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal by November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution)."

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE—

SECTION 1. SHORT TITLE.

This title may be cited as the "National Whale Conservation Fund Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

"(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

"(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

"(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

"(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

"(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

"(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

"(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

"(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

"(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

"(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

"(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

"(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

"(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.".

Mr. GREGG. Madam President, I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Is there objection?

If there is no further debate, without objection, the amendments are agreed to en bloc.

The amendments (Nos. 3277, 3278, and 3279), en bloc, were agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

Mr. GREGG. Madam President, to bring our colleagues up to speed, we now are down to four amendments which are still to be debated and on which votes may be ordered. We presently have votes ordered on at least three amendments. We are waiting for our colleagues who have these amendments in order to come to the floor and make their presentations. It looks as if we will begin voting probably in an hour or so, I hope. There will be a sequence of votes that will be at least three long, potentially six.

Madam President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam 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. 3280

(Purpose: To express the sense of the Senate regarding the impact of Japan's recession on the economies of East and Southeast Asia and the United States)

Mr. LIEBERMAN. Madam President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. THOMAS, Mr. GRAHAM, Mr. LUGAR, Mr. BINGAMAN, Mr. MACK, Mr. DURBIN, Mr. INHOFE, Mr. KOHL, Mr. REID, Mr. BREAUX and Mr. BROWNBACK, proposes an amendment numbered 3280.

Mr. LIEBERMAN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6___. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

Mr. LIEBERMAN. Mr. President, I rise today to offer this bipartisan amendment, a sense-of-the-Senate resolution expressing our concern about the impact of Japan's recession on the economies of East Asia, Southeast Asia and the United States, and particularly appealing to the members—our colleagues and friends—of the Liberal Democratic Party in Japan, which is meeting tomorrow to choose their new president, who will in turn become the next Prime Minister of Japan—to be mindful of the very profound and friendly concern that we have in the U.S. Senate about the condition of the Japanese economy, about its impact on the people of Japan, of Asia, and indeed, of the United States.

I am privileged to offer this bipartisan amendment on behalf of Senators THOMAS, GRAHAM, LUGAR, BINGAMAN, BROWNBACK, DURBIN, KOHL, REID, MACK, BREAUX and INHOFE.

For almost a half century, the United States has worked with Japan for the common goals of peace, stability, democracy and prosperity in East Asia and the world. However, in the face of the deepening Asian economic crisis, this alliance currently faces what may be its toughest challenge yet.

So far, the United States has survived the Asian crisis relatively unscathed, thanks to our long-lived boom economy. But I fear that good fortune may now be ending. By some estimates, worldwide GDP growth will drop from 3.7 percent this year to 2.4 percent next year. Analysts have attributed plummeting commodity prices to the Asian crisis in this country and

throughout the world. A major dropoff in demand for U.S. products in Asia has pushed the trade deficit well beyond expectations to a record $15.75 billion—15 and three-quarters billion—this May. Industrial production in OECD countries like the United States has fallen from 5 percent to 2 percent and is expected to fall further again to 1 percent.

The slide of Asian currencies against the dollar has put serious competitive pressures on our exports and another round of competitive devaluations would have devastating consequences on our industries and our workers.

Unquestionably, Mr. President, if the Asian recession continues, its impact on our economy will worsen and millions of Americans will feel what is happening in Japan and Asia.

This bipartisan resolution emphasizes that the strong recovery of the Japanese economy, which remains by far the largest in Asia, comprising fully two-thirds of the Asian economy, will make or break the region. With every subsequent analysis, the economic picture in Japan darkens.

Japan's financial system has fundamental flaws which have only recently been brought to light, but which most everyone now acknowledges, and the wide scope of their ramifications continues to unsettle and surprise economists. Bad bank loans in Japan account for $574 billion in debt in banks in Japan which claimed to be solvent only recently, a problem which is perpetuated by a weak auditing system. Formal and informal barriers severely restrict free competition, often holding foreign market share in certain sectors down below 5 percent. The yen continues to fall, down 45 percent against the dollar since 1995. Further devaluation of the yen could lead to a devaluation of the Chinese yuan, an event which would have significant ramifications, and bad ones, for the entire global economy, particularly for us in the United States.

All of these factors have led to substantial and understandable dissatisfaction among the Japanese people which they expressed earlier this month, with surprising clarity to many people, in a historic election for the Upper House of Parliament. The ruling Liberal Democratic Party lost 17 of its 61 seats and the primary opposition party, the Democratic Party of Japan, picked up nine members to reach a total of 47 seats in the Upper House. These election results should be taken very seriously in the United States. The situation is bad in Japan, the people of Japan know it, and without change, it will get worse.

It is today axiomatic that we live and work in a global economy. When an economic crisis of this magnitude hits a country as large and significant as Japan, the entire world feels the impact; particularly we feel it. Japan is, after all, our second largest trading partner. Japan imported almost $66 billion of American goods last year. That is more than four times the import of American goods into China, in spite of its much larger population. With 40 percent of American total agricultural product going abroad, the Asian economic crisis is, of course, having a very negative impact on American farmers.

It is no surprise that we are suffering along with East Asia. Without a rally by the Asian economies, American growth will fall off. By all accounts, a stable Japan is the first significant step to a broader Asian recovery.

Mr. President, I do want to indicate to my colleagues and the managers of the bill, I am prepared to yield the floor at any point if anyone wishes to proceed. If the managers have other business they want to do at this time, I am prepared to put the rest of my statement in the RECORD. If not, I will be equally prepared to proceed. I thank the managers, noting the nod from the Democratic floor manager.

Japan has taken steps to address its economic troubles. Economic stimulus packages and structural reform committees have been set in place. However, both the vast extent of the reforms necessary and the current political turnover including the resignation of Prime Minister Hashimoto after the election returns, which I have just described, make it imperative that we in the United States place our full support behind the forces of change, bold change, in Japan, lest they lose momentum.

Swift reform hopefully will be a priority in relations between our two nations. We know, of course, the President has been in touch with the leadership of Japan. Secretary Rubin has done the same.

And it seems only proper, and in some sense is necessary, that the Congress of the United States make clear its broad-based concern for the current economic condition of Japan—and here on the eve of the Liberal Democratic Party elections tomorrow, it is our deep hope, our plea, that change be implemented.

So today, along with the distinguished group of Members of both parties, whose names I mentioned earlier, I am pleased to offer this resolution to express to our President and to the Government of Japan that the Senate of the United States is following Japan's economic performance with increasing anxiety and is very concerned about the pressure that Japan's current economic crisis is putting on our overall bilateral relationship.

While we applaud efforts in Japan in assessing the damage and beginning the reform, we need to maintain a strong position supporting the implementation of those reforms, even though we know they will be painful. The resolution that we submit today cites a number of fundamental reforms crucial to recovery in Japan and Asia, including deregulation of the Japanese economy, liberating the creative, innovative forces that are there, improvement of market access for foreign entities wishing to do business in Japan, enforcement of fair trade, and particularly bold and substantial banking reform.

These are all actions which will increase the competitiveness of the Japanese market and of Japanese companies, providing greater opportunities for foreign investment in Japan and for the success of individual Japanese and foreign entrepreneurs.

Mr. President, a more open and healthy Japanese economy is fundamental to the recovery of the entire Asian region.

Seeing no one else on the floor, Mr. President, I ask unanimous consent for 1 more minute to complete this statement.

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

Mr. LIEBERMAN. I thank the Chair.

Long into the foreseeable future, Japan will remain one of our most important economic trading partners and strategic allies in the world, sharing our common goals of regional and worldwide prosperity and peace. The importance of our alliance, though, compels us to speak out and place our support behind the most innovative reform efforts in Japan and push for a swift resolution of the economic crisis there.

Earlier this week, the House passed a similar resolution with the overwhelming support of 391 Members—only 2 opposed. Given the urgency of the issue and the value of a unified congressional position, I urge my colleagues to support this bipartisan resolution.

I thank the Chair and yield the floor.

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

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. We yield back all time. Does the Senator wish a vote?

Mr. LIEBERMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. Under the previous order, the amendment is now set aside.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, at this time I ask unanimous consent that we now proceed with the four previously ordered votes, two minutes to debate prior to each vote, and that the three succeeding votes be limited to 10 minutes in duration.

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

Mr. GREGG. I thank the Chair.

AMENDMENT NO. 3272

The PRESIDING OFFICER. The order of business is the Nickles amendment numbered 3272. There are 2 minutes of debate equally divided.

Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that all time on the Nickles amendment be yielded back.

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

The question is on agreeing to the Nickles amendment No. 3272.

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 53, nays 47, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—53

Abraham	Faircloth	McCain
Allard	Frist	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Boxer	Gregg	Roth
Breaux	Hagel	Santorum
Burns	Helms	Sessions
Byrd	Hollings	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Conrad	Inouye	Stevens
Coverdell	Jeffords	Thomas
Craig	Kempthorne	Thurmond
Domenici	Kyl	Warner
Dorgan	Lott	Wyden
Enzi	Lugar	

NAYS—47

Akaka	Feinstein	Lieberman
Baucus	Ford	Mack
Biden	Glenn	Mikulski
Bingaman	Gorton	Moseley-Braun
Brownback	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hatch	Reed
Cleland	Johnson	Reid
Coats	Kennedy	Robb
Collins	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Specter
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	

The amendment (No. 3272) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent the next vote on the Bingaman amendment, No. 3273, be passed over and put at the end of the list.

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

AMENDMENT NO. 3276

Mr. GREGG. Mr. President, I believe the next vote will be on my motion to table.

The PRESIDING OFFICER. The pending question is now the Kerry amendment, numbered 3276. Under the previous order, there will now be 2 minutes of debate equally divided.

Who yields time?

Mr. KERRY. I yield 30 seconds to the Senator from Arizona.

Mr. McCAIN. Who goes first, proponents or opponents?

The PRESIDING OFFICER. The Senator from Arizona has been given 30 seconds.

Mr. McCAIN. All right. Mr. President, this would prevent the opening of a consulate in South Vietnam. At least once a year, sometimes more often, we have to vote on whether we want to make progress on relations with Vietnam or whether we want to go back to a situation which existed for many years after the war. This would prevent the opening of a consulate in South Vietnam. It would basically prohibit us from being able to make progress on the resolution of the POW/MIA issue, which every objective observer in the Pentagon says has been going along well, and it would, frankly, inhibit our ability to reach a full accounting.

I recommend we vote for the Kerry amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. I yield myself the remainder of the time.

We have the most extensive effort to account for our service people in the history of human warfare, and that effort would be significantly set back by the language the Senator from New Hampshire has put in place because the cooperation of the Vietnamese would be affected by the judgments he asks the President to make.

We keep in place the current law. The current law has worked effectively. Of 196 people we last knew to be alive in Vietnam, we have received information that has told the families of what happened to all but 43 of them. We want the answers for those other 43. The way to do that is by continuing with the current law, not the new language of the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 1 minute.

Mr. SMITH of New Hampshire. Mr. President, there is nothing inappropriate at all about continuing the updating of the certification process. The President of the United States still must certify. This does not change that. This does not, as the Senator from Arizona said, close down the consulate at all. It simply says the process, ongoing, is to continue to have the Vietnamese participate fully and cooperate fully with accounting for MIAs. That is all it is.

We have had correspondence from Mr. Berger on this matter. We have had comments from Senator KERRY himself, and Senator McCAIN, on the floor, indicating this is a process that should work—forward. So there is absolutely no reason to oppose it.

I point out, 70 former POWs have supported what I am doing in a letter, as does the American Legion, as does the League of Families, the Alliance of Families, and VVA, and many others.

I think the evidence is there to say this does not interrupt certification and the amendment of the Senator from Massachusetts should be tabled.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to lay on the table amendment No. 3276. The yeas and nays have been ordered.

The Senators are advised this will be a 10-minute vote.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 34, nays 66, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—34

Ashcroft	Feingold	Lott
Bennett	Frist	Moseley-Braun
Bond	Gramm	Nickles
Brownback	Grams	Reid
Byrd	Grassley	Roberts
Campbell	Gregg	Santorum
Collins	Hatch	Sessions
Coverdell	Helms	Smith (NH)
Craig	Hutchinson	Snowe
D'Amato	Hutchison	Thurmond
Enzi	Inhofe	
Faircloth	Kempthorne	

NAYS—66

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Allard	Glenn	McConnell
Baucus	Gorton	Mikulski
Biden	Graham	Moynihan
Bingaman	Hagel	Murkowski
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Burns	Johnson	Roth
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Shelby
Coats	Kerry	Smith (OR)
Cochran	Kohl	Specter
Conrad	Kyl	Stevens
Daschle	Landrieu	Thomas
DeWine	Lautenberg	Thompson
Dodd	Leahy	Torricelli
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lugar	Wyden

The motion to lay on the table the amendment (No. 3276) was rejected.

CHANGE OF VOTE

Mr. COVERDELL. On rollcall vote 231, I voted no. It was my intention to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. GREGG. I ask unanimous consent to vitiate the yeas and nays on the underlying amendment.

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

Mr. GREGG. Mr. President, I ask unanimous consent that the underlying amendment be agreed to.

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

The amendment (No. 3276) was agreed to.

Mr. KERRY. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3280

The PRESIDING OFFICER. The pending question is now the Lieberman amendment No. 3280. Under the previous order, there will be 2 minutes of debate equally divided.

Mr. LIEBERMAN. Mr. President, little more than 24 hours from now, the members of the Liberal Democratic Party will be meeting in Japan to choose their new head, who will in turn become the next Prime Minister of Japan. In that sense, this resolution, which I have been privileged to introduce with a bipartisan group of cosponsors, the principal cosponsor being Senator THOMAS of Wyoming, the chairman of the Asian Subcommittee of Foreign Relations, this resolution could not come at a better time. It recognizes the importance of our bilateral relationship with Japan, perhaps the most important bilateral relationship we have. It notes the economic crisis in Japan and the way in which it is beginning to affect our economy. Commodity prices are dropping; our import-export balance is being affected; our trade deficit is going up.

It appeals to the leadership of our great ally, Japan, as the Liberal Democratic Party meets tomorrow, to not just choose a new leader but to choose a new bold course which will directly address the economic crisis in that country which is now affecting us. I urge a strong bipartisan vote on this as a message to our friends in Japan.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I don't doubt the sincerity of our dear colleague, who is one of our more respected Members, in offering a sense-of-the-Senate resolution that the Japanese ought to promote economic growth. However, I have to say, having been here to almost midnight last night, it makes little sense to me that we are going to have a 100-0—if everybody is here—rollcall vote on this sense-of-the-Senate resolution when nobody is opposed to Japan having economic growth.

I don't know how we are going to pass the appropriations and adjourn and keep the Government running if we are going to continue to do this. It is not just Democrats, it is Republicans as well.

We are for the amendment, but why we have to have a rollcall vote on it, I don't understand.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment numbered 3280. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 98, nays 2, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—98

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

NAYS—2

Kerrey	Wellstone

The amendment (No. 3280) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3273

Mr. GREGG. Mr. President, I ask unanimous consent to vitiate the vote on No. 3273, the Bingaman amendment.

The PRESIDING OFFICER (Mr. INHOFE). Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3273, AS MODIFIED

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from New Mexico, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is modified.

The amendment (No. 3273), as modified, is as follows:

At the appropriate place, insert:

No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3273), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3281

(Purpose: To eliminate the potential for fraud in the investor visa program)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Mr. BUMPERS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. BUMPERS, proposes an amendment numbered 3281.

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

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

The amendment is as follows:

At the appropriate place add the following:

SEC. .

(a) Add the following at the end of 8 U.S.C. 1153(b)(5)(C):

(iv) Definition:

(A) As used in this subsection the term "capital" means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a payback period that exceeds 21 months;

(B) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.

(b) This section shall not apply to any application filed prior to July 23, 1998.

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3281) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, for the information of our colleagues, we now turn to the Smith amendment. Under the terms of the agreement, there will be 40 minutes of debate on this amendment. I expect we will begin voting on final passage and on the Smith amendment no earlier than 3 o'clock and no later than 3:15.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Is the Chair prepared to receive an amendment?

The PRESIDING OFFICER. We are prepared. Under the previous order, there will be 20 minutes equally divided and then 20 minutes on the second-degree amendment.

Mr. GREGG. Will the Senator from Oregon yield?

Mr. SMITH of Oregon. Yes.

Mr. GREGG. As I understand, there has been an agreement reached between the parties here that there will be 40 minutes of debate equally divided between the Senator from Oregon, who will control half of that time, and the Senator from Massachusetts, who will control half of that time. Is that correct?

Mr. SMITH of Oregon. That is correct.

Mr. GREGG. I ask unanimous consent that be the procedure under which we function.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3258

(Purpose: To establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes)

Mr. SMITH of Oregon. 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 Oregon [Mr. SMITH], for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, Mr. MACK, Mr. KEMPTHORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND, proposes an amendment numbered 3258.

Mr. SMITH of Oregon. 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 printed in today's RECORD under "Amendments Submitted.")

Mr. SMITH of Oregon. Mr. President, I rise today along with Senators WYDEN, CRAIG, GRAHAM of Florida, BUMPERS, GORTON, HATCH, MCCONNELL, MACK, KEMPTHORNE, SANTORUM, FAIRCLOTH, and THURMOND to offer the Agricultural Jobs, Opportunity, Benefits and Security Act of 1999, also known as AgJOBS. Our bill will create a streamlined guest worker program to allow a reliable supply of legal, temporary, agricultural workers.

Why is this necessary? Currently, in this country, we have a process for guest workers that is terribly broken. The H-2A program, if I could show you graphically, has a 6-page application for each worker, with 325 pages of instructions as to how to fill it out. As a consequence, all of the foreign workers who are in this country are here either illegally or having been grandfathered in through earlier amnesties.

It is estimated by the GAO that 40 percent of those who are here are illegal. As a consequence of that, the GAO has said there is not a farm labor supply problem because we have all these illegal aliens here. I am simply saying, and I am doing it on a bipartisan basis, we owe this country something better than a system that relies upon illegal immigration. We ought to give these foreign workers the dignity of being here under law, with some basic human standards and some benefits to which they ought to be entitled when they are here. It is for that reason that Senator WYDEN and I have approached the farm community and asked them to give as much as they can, to help economically to fix this program. I believe they have responded. It is for that reason there are so many Republicans and Democrats on this bill.

I know there are still some misgivings. I know my friend from Massachusetts has misgivings; the Senators from California do. But what we want to do is get this bill to a conference committee with some place markers so we can provide a forum where this can be further refined. Let me tell you the kinds of features Senator WYDEN and I share in a common desire to ultimately change American law in a very fundamental way in order to avoid a very large crisis for consumers, for farm employers, and for farm workers.

We are proposing in this bill the establishment of a national registry which will replace the current system that so few are able to use, even if they could afford to use it. This is going to be a registry for domestic workers only, in a way that will allow farmers to know where they can go for workers and where they can have legal status. In exchange for this, there will be added to the current system—we are going to preserve all the basic rights that are guaranteed; all the labor guarantees that are there will remain there. We are going to have a prevailing wage rate, something that reflects a level that the agricultural community can afford, and also one that gives probably in excess of 1.5 million farm workers a pay raise. We are not talking about the minimum wage, we are talking about a prevailing wage plus 5 percent.

In addition to that, we are talking about a transportation allowance and a housing allowance. These are things that we owe those who come here to this country to do agricultural work. These are things which my friends on the left have been asking for, for a long, long time. I am here to say the time is now to say yes. We are saying yes to that. We are doing it on a basis, though, that recognizes the economics of the farmer also, because the truth is, most of the agricultural employers in this country are not big corporate farms, they are mom and pop who are trying to make a bottom line. They do not even control, in most cases, the price that they get for their commodities.

We believe—Senator WYDEN and I and Senator GRAHAM of Florida, who has been so helpful on this, and others on the Democrat side—that we have found the middle ground here that wins for consumers but, more important, wins for agricultural workers and also for farmers.

With that, I yield time to my colleague from Oregon, whose help I appreciate very much, Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I hope this amendment is just the beginning of the debate on agricultural labor. But I believe that the legislation before the Senate is based on three principles that can last well into the 21st century and be in the interests of both farm workers and farm employers.

The first principle on which this amendment is based is that the U.S. worker must come first—that U.S. workers, for example, when they participate in the registry, will have the right of first refusal to any available farm job in our country, and that the Federal Government is required to notify those workers about available positions.

Second, this amendment brings before the Senate specific changes proposed over the years by the Farm Worker Justice Fund to improve working conditions for the farm workers in our country.

Third, it will replace the current dysfunctional system for administering this program with one that is modern and is based on the use of computer technology.

At every step along the way, this package tries to address specific concerns raised by worker advocates, as well as those advocating for the growers. My colleague, Senator SMITH,

talked about the registry. If a U.S. worker participates in the registry, that worker is entitled to benefits that U.S. workers are not entitled to today, such as housing and transportation. And the registry also seeks to address the concerns of growers, specifically, by saying that when a grower utilizes this registry, the grower can then be certain that there is a presumption that their workers are legal.

The last point I would like to raise, because I know many of my colleagues want to speak and have important questions, deals with exactly the number of people involved in farm labor in our country. This is the centerpiece of the question. We have heard a lot of talk on the floor of the Senate about a guest worker program. There are very few legal guest workers. There are 1.6 million farm workers in our country and perhaps 25,000 guest workers who are here legally under the current program. The 1.6 million farm workers, who work on those farms, have virtually no legal entitlements other than to the minimum wage. So what this legislation does is it potentially extends basic worker protections to a far greater share of that 1.6 million pool of workers, save 25,000. It will create a circumstance in which hundreds of thousands more farm workers get access to housing and transportation and other benefits that they do not have today.

I know this is a new concept, but it is an important one because what this amendment seeks to do is to change the nature of the system so we can make sure the bulk of our workers are legal in America. The General Accounting Office made the judgment that there was no shortage of workers in America, but they concluded that way because they counted illegal workers. Right now, any grower can tell you that their workers may appear to be legal, but that the Social Security Administration often rejects more than half of the Social Security numbers filed. So what we have is a situation with growers caught between being penalized because they cannot find legal workers or being felons because their workers are not legal.

I believe workers deserve better and growers deserve better. That is what this amendment does. I appreciate Senator SMITH giving me this time from the allotment that he has.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I join with my colleagues from Oregon, both of my colleagues from Oregon, and certainly the Senator from Florida, who have worked with us to craft the legislation that is now before you.

For several years, I have tried to deal with the H-2A problem, only to be unsuccessful. I must tell you, Mr. President, I have watched the problem grow across America in a most inhumane way because the workforce is needed and the workers come. They come across our borders illegally, they are subjected to inhumane environments, in many instances, and, as a result, a great problem has grown, not only for a workforce seeking work, but also for the individual or individuals who provide the work, American agriculture. We have here a rare opportunity. It is an opportunity to fix a problem before it truly becomes a crisis on both sides. And in fixing that problem, my colleagues from Oregon and Florida, and myself involved, have attempted to approach it in a very commonsense way. That is to avoid the conflicts for millions of Americans, and recognizes, as Senator WYDEN just said, that the American worker should come first, but in a state of near full employment where the unemployable, or those who choose not to work, are the only ones remaining. Clearly, we are at a point of crisis, and we must offer that opportunity to farm labor, to those who are willing to, and under a condition now that I think is much more presentable.

Growers want and need a stable and predictable workforce, a legal workforce. They don't like playing around the edges of illegality. Let us make this workforce legal under the conditions that have been spelled out in this legislation. I think that provides a good, fair, market-based compensation. Prevailing wage is the wage issue here, and that is as it should be.

Unemployed workers, and those hoping to move from welfare to work, want and need to be matched up with decent jobs. That is what our society ought to be directed toward. American citizens should have first claim, as I said, to American jobs, but all workers would rather be working legally and hope for protection of basic labor standards.

These goals are not always met. In fact, current Federal law and its bureaucratic implementation are hurting growers and workers which have created a system that has created a monstrous bureaucracy. The Senator from Oregon talks of the multitude of pages necessary and in an attempt to determine who is and who isn't legal, of course, the employer oftentimes being held liable.

This is why I am pleased I can join with my colleagues in proposing what I think is phenomenally constructive reform in the H-2A Agricultural Guest Worker Program. Failure to fix or replace this program means the Federal Government is completely ignoring the needs of a significantly changed agricultural labor market.

Many employers who meet legal standards of diligence when they hire a worker really have no idea if the next raid by the Immigration and Naturalization Service will scare off their workforce and their crops will rot in the field. That is not an exaggeration. Just a few weeks ago that happened in the State of Georgia, just to our south: One county, a raid; the rest of the county was cleared out of a workforce which left crops rotting in the fields. It is an issue in Georgia, in Florida, in Idaho, in Oregon, in New York, in Kentucky—all over the country where this particular type of work force is necessary.

California growers and local officials have made a real effort to address this shortfall with welfare-to-work efforts—which does not appear to be helping.

The GAO study that has helped prompt the kind of urgency that the Senators from Oregon spoke to estimated that as many as 600,000 farm workers, or 37 percent of the 1.6 million, are not legally authorized to work in the United States—600,000. That is a problem, a very big problem, a problem created by laws and by a Department of Labor, and I am pleased that they have worked with us to resolve this issue.

As workers disappear from U.S. fields—and crops stay there, instead of moving to stores and consumers—U.S. food will be replaced by foreign imported food.

This means a mainstay in our economy—the U.S. agriculture industry—is threatened with a major breakdown. And our families are threatened with an increased risk to their health and safety because of food-borne diseases.

Also, the current H-2A program has been a red-tape nightmare. Even when growers meet all deadlines, GAO found that DOL misses its statutory deadlines 40 percent of the time.

The current H-2A program has been completely ineffective as a means of obtaining temporary and seasonal workers—supplying only about 24,000 out of 1.6 million farm workers.

In the 1996 Immigration Law, and in appropriations over recent years, Congress has made it a priority to secure our borders and crack down on illegal immigration.

What is needed is a bipartisan effort to reform the current H-2A system, having the following components:

Creation of a new, voluntary national registry of migrant farmworkers to which growers can turn for workers they know are legal.

If enough domestic workers cannot be supplied through the registry, growers could apply for legal guest workers through an expedited, reformed H-2A program.

The new program would resemble current H-2A, but it would have faster turnaround, less red tape, and greater certainty for employers.

It would also have continued protection for workers, and greater flexibility for employers, related to conditions of employment, such as housing, transportation, and market-based wages.

I invite my colleagues to support me in this important endeavor.

Mr. President, again, I appreciate the bipartisan work that has gone into this initiative and that we were able to bring it promptly to the floor. I hope there is a strong majority, a bipartisan vote in the Senate to move it to conference.

I yield the floor.

Mr. KENNEDY. Mr. President, I see my friend and colleague from California. How much time does she need?

Mrs. BOXER. Sixty seconds.

Mr. KENNEDY. I yield a minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President. I rise today to say that what we have in front of us is a major rewrite of the Guest Worker Program. This particular proposal has had no hearings.

I have talked with my colleagues, of whom I am very fond, on both sides of the issue, and I am getting different responses. One says it will vastly increase illegal immigration; the other says it will control it.

One says it will depress agricultural workers' wages; and the other one says, no, it is going to get better.

One says it will take away housing from farm workers; the other says it will get better.

What is the impact on American workers? We don't know. I say to my good friends on both sides, something like this ought not be rushed away. I have 60 seconds to talk. My colleague from California, who has been a leader on this issue, is going to have 4 minutes or 5 minutes. This is wrong. We really ought to do this in the right way: send it to the committee and have a full hearing.

I yield back my time to my colleague. I thank him.

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

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I request up to 10 minutes of time from the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon has 3½ minutes remaining.

Mr. SMITH of Oregon. I have been informed by the managers of the bill that we have now available on both sides until 3 o'clock. Senator KENNEDY and I have agreed we will split it evenly. I believe there is more time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KENNEDY. Reserving the right to object, and I will not. As I understand it, what we were going to do is divide the total time evenly, from the time the amendment was laid down until the time of the vote; am I correct?

Mr. SMITH of Oregon. The Senator is correct.

The PRESIDING OFFICER. That is correct. We are treating it as a unanimous consent request, and there is no objection.

Mr. SMITH of Oregon. Mr. President, before Senator GRAHAM speaks, I ask unanimous consent that the amendment that we intended to send actually be sent, and that the amendment we will be voting on will be the one with the changes which we all understand are there.

The PRESIDING OFFICER. The Senate will be properly informed. There are an extra 5 minutes to each side. The Senator from Oregon has 8 minutes 39 seconds remaining. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, the current system is broken. Let me just give a few examples of that collapse. According to the General Accounting Office report issued the end of 1997, there were 600,000 illegal agricultural workers in the United States—600,000. In my State of Florida, a major agricultural production State, in 1997 the number of H-2A visas, the visas that would create a legal status for an alien agricultural worker, were four; not 400 or 4,000, but four.

Third, the American worker is disadvantaged under the current system. As an example, if an American agricultural worker is employed by an American farmer, the American farmer must pay Social Security and other employment taxes on the wages earned by that American farm worker. But if the American farmer employs a non-U.S. farm worker, those taxes do not have to be collected and, thus, there is an incentive to employ the foreign worker before employing the American worker.

Farmers are in a sea of complexity. There is a process under the current law in which a farmer can make an application for an H-2A worker. Supposedly, that application is to be processed within 20 days. In 1996, more than one-third of the applications failed to meet that 20-day processing period, and so the farmer was not able to get a signal as to whether his request for legal foreign workers would be met.

This fails the foreign worker. It fails the foreign workers by forcing most of them into an illegal status where they lack the respect and protection that a legal program would provide.

If I could give one example: In August of 1992, after Hurricane Andrew hit south Dade County, FL—a major agricultural production area—there was concern about a public health epidemic and therefore there was the desire to have people immunized against a variety of potential diseases.

The public health officials found it extremely difficult to get the agricultural workers to come forward to be immunized for their own protection and the protection of the general public because they knew they were illegal and were afraid that, by presenting themselves for an immunization shot, they would be making themselves subject to deportation. That is the kind of fear and terror in which we have over 600,000 human beings in the United States, who are harvesting our food, live on a daily basis.

Finally, the current system fails the American consumer. We have the opportunity in this country and have had historically access to the best food produced under the most sanitary conditions and the most affordable food in the world. But if we have many more instances, as the Senator from Idaho talked about occurred recently in Georgia, where a major crop rots on the field because of the inability to secure a legal workforce, we will be denying the American consumer what we have traditionally assumed is an American birthright.

Mr. President, the current system is broken. The Senator from Oregon and others, who have joined together in this bipartisan effort, have attempted to understand what those problems are that contributed to the brokenness of the current system and to present a series of prescriptions to correct that.

We look forward to working with our colleagues in a process of refining the proposal that we have made, but we believe this represents a significant step forward in terms of protecting the rights of American workers, of creating a legal workforce for the American farmer, and particularly the interest of the American consumer.

Thank you.

AMENDMENT NO. 3258, AS MODIFIED

Mr. SMITH of Oregon. Mr. President, I could not hear the rule on my unanimous consent request. And I send a modified amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Just reserving the right to—is that the modification that we talked about before?

Mr. SMITH of Oregon. It is, I say to the Senator.

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

The text of the amendment (No. 3258), as modified, follows:

At the appropriate place, insert the following new title:

TITLE ___—TEMPORARY AGRICULTURAL WORKERS

SEC. ___01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Job Opportunity Benefits and Security Act of 1998".

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

Sec. ___01. Short title; table of contents.
Sec. ___02. Definitions.
Sec. ___03. Agricultural worker registries.
Sec. ___04. Employer applications and assurances.
Sec. ___05. Search of registry.
Sec. ___06. Issuance of visas and admission of aliens.
Sec. ___07. Employment requirements.

Sec. ___08. Enforcement and penalties.
Sec. ___09. Alternative program for the admission of temporary H-2A workers.
Sec. ___10. Inclusion in employment-based immigration preference allocation.
Sec. ___11. Migrant and seasonal Head Start program.
Sec. ___12. Regulations.
Sec. ___13. Funding from Wagner-Peyser Act.
Sec. ___14. Report to Congress.
Sec. ___15. Effective date.

SEC. ___02. DEFINITIONS.

In this title:

(1) ADVERSE EFFECT WAGE RATE.—The term "adverse effect wage rate" means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term "eligible" as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term "employer" means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term "job opportunity" means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term "prevailing wage" means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term "registered worker" means an individual whose name appears in a registry.

(8) REGISTRY.—The term "registry" means an agricultural worker registry established under section ___03(a).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. ___03. AGRICULTURAL WORKER REGISTRIES.

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) VALIDATION OF EMPLOYMENT AUTHORIZATION.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section ___05 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section ___05.

(4) REMOVAL OF NAMES FROM A REGISTRY.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) VOLUNTARY REMOVAL.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) REMOVAL BY EXPIRATION.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. ___04. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section ___05. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) IN GENERAL.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) EMPLOYERS.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are

sought to be employed, the Secretary may delay issuance of the report described in section ___05(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) ASSURANCES.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) ASSURANCE THAT THE JOB OPPORTUNITY IS NOT A RESULT OF A LABOR DISPUTE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.—

(A) REQUIRED ASSURANCE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) SEASONAL BASIS.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) TEMPORARY BASIS.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section ___07 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will refuse to employ individuals referred under section ___05, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

(A) IN GENERAL.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) LIMITATIONS.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) ASSURANCE OF ADVERTISING OF THE REGISTRY.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) ASSURANCE OF CONTACTING FORMER WORKERS.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) ASSURANCE OF PROVISION OF WORKERS COMPENSATION.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW OF APPLICATION.—

(1) IN GENERAL.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section ___08(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) REJECTION OF APPLICATIONS.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section ___08(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. ___05. SEARCH OF REGISTRY.

(a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section ___04(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) DEADLINE FOR COMPLETING SEARCH PROCESS; REFERRAL OF WORKERS.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) NOTICE OF INSUFFICIENT WORKERS.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section ___04(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. ___06. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) IN GENERAL.—

(1) NUMBER OF ADMISSIONS.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section ___05(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) PROCEDURES.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) AGRICULTURAL ASSOCIATIONS.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section ___04(a)(2)(B).

(b) DIRECT APPLICATION UPON FAILURE TO ACT.—

(1) APPLICATION TO THE SECRETARY OF STATE.—If the employer has not received a

referral of sufficient workers pursuant to section ___05(b) or a report of insufficient workers pursuant to section ___05(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section ___04(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. ___07. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section ___04(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term "task rate" means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term "group rate" means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section ___04(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which

the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section ___05(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the employer for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence.

(3) LIMITATION.—

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(d) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section ___04(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section ___05(b) after the employer receives the report described in section ___05(b).

(2) LIMITATION.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section ___04(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which the worker is qualified that offer substantially similar terms and conditions of employment.

(3) LIMITATION ON REQUIREMENT TO PROVIDE HOUSING.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) REFERRAL OF WORKERS DURING 50-PERCENT PERIOD.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

SEC. ___08. ENFORCEMENT AND PENALTIES.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section ___04 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section ___04(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section ___04,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. ___09. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS.

(a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking "(c)(1) The" and inserting "(c)(1)(A) Except as provided in subparagraph (B), the"; and

(C) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section ___04(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.".

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

"ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS

"SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

"(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

"(A) CRITERIA FOR ADMISSIBILITY.—

"(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

"(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

"(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

"(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

"(C) ABANDONMENT OF EMPLOYMENT.—

"(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

"(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

"(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

"(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

"(I) specify the date of the alien's acquisition of status under this section;

"(II) specify the expiration date of the alien's work authorization; and

"(III) specify the alien's admission number or alien file number.

"(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

"(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section ___06(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

"(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

"(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

"(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

"(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

"(b) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and make recommendations on appropriate courses of action."

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking "specified in this paragraph" and inserting "specified in this subparagraph (other than in clause (ii)(a))".

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

"Sec. 218A. Alternative program for the admission of H-2A workers.".

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking "ALTERNATIVE PROGRAM FOR".

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

"(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).".

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

"(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.".

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. __10. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

"(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.".

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(iv)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. __11. MIGRANT AND SEASONAL HEAD START PROGRAM.

(a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting "and seasonal" after "migrant"; and

(2) by inserting before the period the following: ", or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period".

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike "13" and insert "14";

(2) in paragraph (2)(A), by striking "1994" and inserting "1998"; and

(3) by adding at the end the following new paragraph:

"(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.".

SEC. __12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. __13. FUNDING.

If additional funds are necessary to pay the start-up costs of the registries established under section __03(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). Except as provided for by subsequent appropriation, additional expenses incurred for administration by the Attorney General, the Secretary of Labor, and Secretary of State shall be paid for out of appropriations otherwise.

SEC. __14. REPORT TO CONGRESS.

Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. __15. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this title.

Mr. SMITH of Oregon. How much time is remaining?

The PRESIDING OFFICER. The Senator from Oregon has 3 minutes remaining.

Mr. SMITH of Oregon. We are going to reserve that for the Senator from Washington.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, in 1960, Edward R. Murrow shocked the Nation with his famous television documentary on the exploitation of farm workers in America. His report, "Harvest of Shame," led to the repeal of the bracero program in 1964, under which 4.6 million Mexican workers had been brought to this country to harvest U.S. crops under harsh and abusive conditions.

I remember very clearly as a junior member on the Human Resources Committee the extensive hearings that we had and the travels that we took to many different parts of this country.

Yet here we are today considering an amendment that creates a new large-scale foreign agricultural worker program. Don't we ever learn? Have the special interests no shame.

A new bracero program would be harmful to American farmworkers, harmful to efforts to control illegal immigration, and harmful to the nation.

If the Senate votes for this amendment, it is voting for another "harvest of shame." It is voting to let thousands of poor foreign farmworkers come here and stay permanently. This amendment opens the floodgates to foreign workers. It gives them permanent green cards if they work here for four consecutive harvests.

This amendment turns its back on years of efforts to improve conditions for America's farmworkers we admit under the current immigration laws.

A vast new guest worker program is completely unnecessary. As the General Accounting Office said in December: "Ample supplies of farm labor appear to be available in most areas."

I refer our colleagues to page 6 of the December publication of the GAO. It says:

> GAO's own analysis suggests, and many farm labor experts, government officials, and grower and farm labor advocates agree, that a widespread farm labor shortage has not occurred in recent years and does not now appear to exist. . . It found that 13 counties maintained annual double-digit unemployment rates, and 19 percent had rates above the national average.

The late Barbara Jordan and her Commission on Immigration Reform unanimously—unanimously—concluded that creating such a program would be a "grievous mistake". Every Federal immigration commission in modern times has concluded that agricultural guestworker programs should not be expanded. The Commission on Immigration Reform, the Commission on Agricultural Workers in 1992, and the Hesburgh Commission in 1981 all reached that conclusion.

The so-called protections in this amendment can be easily circumvented. The Department of Labor does not even have the authority to limit the issuance of visas if it finds that the employment of foreign labor is hurting U.S. workers. This bill strips

all of the protections in the current program.

First, this amendment weakens the requirements to hire American farmworkers first. It requires the Department of Labor to set up a new high-tech registry in which growers post their jobs and American workers who register with the Labor Department can be matched with them. But all a company has to do is check the registry—if it can't get a worker right away, it can bring in a foreign worker. A check with the registry is the only recruitment an employer has to do, and we do not know if the registry will even work.

Most American farmworkers earn less than $12,000 a year. They don't have computers at home, where they can log onto the Internet and check the registry. In fact, many American farmworkers can't even afford telephones to call the registry. Until we know that a registry really can work, it is nothing but a gimmick that lets growers evade their responsibility to hire U.S. workers first.

This amendment also eliminates the requirement that growers must provide housing for the foreign workers they bring in. Even under the discredited bracero program, employers were required to provide housing.

But under this amendment, all growers have to provide is a housing voucher. What foreign worker can negotiate the American housing market? How can a farmworker from Mexico or the Caribbean find an apartment in rural America to rent for just a few weeks when he doesn't know his way around, can't speak English, and doesn't have a car? You can make the housing as generous as you want. But many of these workers are going to be homeless.

This amendment also weakens the wage standards and will depress the wages of American farmworkers already struggling to make ends meet. American farmworkers are the poorest of the working poor. I ask unanimous consent that an article from the New York Times be printed at this point in the RECORD.

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

[From the New York Times, July 19, 1998]

THE MIDDLE CLASS: WINNING IN POLITICS, LOSING IN LIFE

(By Louis Uchitelle)

The great American middle class. Politicians of the left and right court it. Policies, liberal and conservative, are proclaimed on its behalf. Health care reform was to have eased its cares. Tuition subsidies educate its children. President Clinton made a "middle class tax cut" a centerpiece of his election campaign.

Most voters see themselves as members of the middle class, so Newt Gingrich, the House Speaker, picked up the theme. When the Republican-controlled Congress finally passed a tax bill last year, he described it as the Republican "fulfillment of what President Clinton promised—a middle class tax cut."

But for all its mythic power, the middle class is finishing last in the race for improvement in the current economic boom. At the top and bottom of the economic ladder, wages are rising briskly. In the middle, they are rising slowly. This is unusual. While upper-income people often improve their lot faster than the middle class, lower-income workers hardly ever do.

The middle class of political exhortation and national myth isn't the same as the statistical middle of the wage scale, the place where progress is surprisingly slow. Half of the so-called middle class tax cuts enacted last year went to people earning more than $93,000. And while the median household earns almost $40,000 a year, the median individual wage is much lower: $11.13 an hour last month, or about $23,000 a year for a 40-hour work week.

It isn't that workers in this statistical middle—people earning roughly $23,000 to $32,000 a year for a 40-hour week—are visibly aggrieved because they are losing ground to their upper- and lower-earning fellow citizens. After all, their pay has gone up faster than the inflation rate over the last two years, even if the increase is not as great as the one experienced by lower- and upper-income workers.

"Everyone seems to be reacting to the favorable improvement in their pay," said Richard Curtin, director of consumer surveys at the University of Michigan. "But the longer the expansion lasts, the more people will turn toward comparisons with other groups. That's when the grumbling and the wage demands begin. When you look across society, you are not really seeing that yet."

THE MIDDLE-CLASS LIFE

Lots of things can help someone improve his lot in life, of course. A rising stock market, tax breaks, inheritance, government subsidies like Medicare and Social Security, extra hours on the job and overtime pay all pay roles, particularly for those at the top and bottom of the income ladder. The really wealthy often rely not on wages but on earnings from their investments. And many households put together the wages of two or three household members, bringing the median household income to nearly $40,000, which is enough to live a middle-class life in most of the United States.

By some estimates, a family of four must bring in at least $27,000 a year from one or more wage earners to maintain what John Schwarz, a political scientist at Arizona State University, describes as "a minimally adequate standard of living." In pursuit of that goal, most people measure their standing in the work force by what they earn individually on the job.

The bottom 20 percent on the national wage scale, earning $14,500 a year or less for a 40-hour week, has gained the most ground over the last two years, once wages are adjusted for inflation. Upper-income Americans, those earning north of $75,000 a year, have gained almost us much as the low-income people in the same two-year stretch. The middle group has gained a little ground since 1996, but less than the others.

BREAKTHROUGH

Viewed over the full eight years of the current economic expansion, the middle has actually lost ground, while the top and the bottom have gained at roughly the same gradual pace. Once wages are adjusted for inflation, the low end, for the first time, has regained all the ground lost in the early 1990's and is now earning more than in 1989, when the last economic expansion ended and a recession set in, undercutting wages.

Workers earnings slightly more than the poorest group or, at the other extreme, somewhat less than the richest wage earners, also did better than those in the middle, although not as well as those at either extreme.

The breakthrough came this year. The low-end wage, a maximum of $6.99 an hour last month for the bottom 20 percent, was 20 cents higher than in 1989, adjusted for inflation, according to the Economic Policy Institute, which calculated the trends from data provided by the Labor Department's Bureau of Labor Statistics.

By comparison, the median wage, smack in the middle, was $11.13 an hour in June, or 17 cents lower than in 1989. The upper end, mostly peopled by well educated and skilled workers, seldom loses ground in any year. At the high end, the wage of $24.63 an hour today, adjusted for inflation, is 91 cents ahead of the comparable 1989 level.

There are reasons, of course, for the slide in the middle. Despite all the rhetorical emphasis on policies that favor the middle class, it is low-income workers who have gotten the extra nod from Washington in this economic expansion—particularly through a 90-cents-an-hour increase in the minimum wage since October 1996. It was an increase that the Democrats proposed and the Republicans in Congress finally favored.

The minimum reached $5.15 an hour last September, and the ripple effect has pushed up wages for workers earning as much as 50 cents an hour over the minimum. That is a big portion of the people in the lower 20 percent of the American work force.

"The higher minimum wage is the key factor that has lifted people at the bottom," said Edward Wolff, a labor economist at New York University, whose own earnings calculations produced roughly the same results as those of the Economic Policy Institute.

The economy has played a big role, too. A surge in growth over the last two years and a falling unemployment rate produced labor shortages that showed up first at the low end of the work force. Meanwhile, middle-level workers, while finding jobs easily enough, had more difficulty raising their wages. Mr. Wolff and other labor economists tick off the reasons.

Computers have diluted the demand for clerks, secretaries and other medium-skilled workers. Unions, once the powerful bargaining agents of middle Americans, are weak today. Rising imports have hurt workers who make the same goods in this country. Corporate downsizing spread in the 1990's through white-collar ranks, making middle-income people feel less secure in their jobs and more reluctant to push for raises. And a bigger percentage of the work force now has a college education or at least some college training, diluting the demand for them. The wages of people with only four years of college are no longer rising.

"While middle income people benefit from the tight labor market, they have a harder time digging themselves out of the wage hole," said Jared Bernstein, a labor economist at the Economic Policy Institute.

HARD TO HELP

They are also harder for government to help, says Edward Montgomery, the Labor Department's chief economist. A huge swath of people who earn roughly $23,000 to $55,000 a year—and pay more than 40 percent of all Federal income taxes—are much more on their own than lower-income workers. There

are government-subsidized training programs, for example, to get unemployed people into the low end of the labor force. The minimum wage and the earned-income tax credit (a Republican initiative that rebates tax revenue to low-wage workers) put a floor under their income. But middle-level people depend much more on their own dealings with their employers to determine their situations.

"It is harder for government policies to reach these middle level people," Mr. Montgomery said. "In a free enterprise society, we are hesitant to subsidize an employer for something he would do anyway."

Mr. KENNEDY. This study shows that despite the extraordinary prosperity we have seen in the United States, the farmworkers are on the lowest rung—working the hardest—the lowest rung of the economic ladder and have moved backward in terms of their real purchasing power. They already suffer double-digit unemployment, and this amendment will make that crisis worse. It eliminates the requirement in current immigration law that foreign workers must be paid a wage that will not depress wages for American farmworkers.

Even if an American worker shows up early in a harvest, he will not be guaranteed the job if an employer has foreign workers. In fact, that is the way most American migrant farmworkers get their jobs—by just showing up. For years—for decades—they have travelled farm to farm at harvest time. They show up for the job, harvest after harvest.

Under current law, if an American worker shows up in the first half of a harvest, he gets the job, even if a foreign worker is already there. This is called the "50 percent rule." Under this amendment, if that American worker is not on the new computer "registry," he cannot get the job.

I am also concerned that this amendment will encourage illegal immigration. After spending billions of dollars to strengthen the Border Patrol to keep illegal immigrants out, it makes no sense to instruct the INS to cut a gaping hole in the border fence, and look the other way as illegal immigrants pour through.

We know from the hard lesson of past experiences that foreign agricultural worker programs create patterns of illegal immigration that can't be stopped. The first workers to come here may be legal, have temporary work visas—but they create an endless chain of illegal immigration, as relatives, neighbors, and friends follow them into America.

In fact, under this amendment, if you work in this program for four years, you get a green card and can stay in America forever. An unlimited number of workers can enter under this reckless program. There is no cap. Hundreds of thousands of workers can come in, work four years, get green cards, and stay forever.

As Philip Martin, a leading agricultural labor economist at the University of California at Davis, has stated, when it comes to temporary foreign worker programs, "There is nothing more permanent than a temporary worker."

The original bracero program did not really end in 1964. It established a permanent, well-traveled path of illegal immigration. And three and a half decades later, we are still paying a price. A comprehensive joint study by the United States and Mexico, completed last year, put it this way:

History has shown that U.S.-sanctioned bracero recruitment in the 1950s oriented many Mexican workers toward the U.S. labor market instead of toward local jobs and development. This began a tradition of migration, raised expectations, and set into place a baseline of individuals and families who would eventually reside permanently in the U.S. Although meant to be a temporary supply of workers, an unintended consequence was to create a resident population.

This amendment adds to that problem, Mr. President. I think it will hurt America's vulnerable farmworkers and cause permanent damage to our immigration policies. I urge my colleagues to oppose it.

How much time remains?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. KENNEDY. I yield 7 minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts.

Mr. President, I am really disappointed that this program is being ramrodded through on an appropriations bill. This program represents a huge new immigration program and no one should think to the contrary.

Fifty percent of all the people that are going to come in from other countries under this program will go to one State—California. California has not been afforded the time to do the analysis to see how this program would affect it. This program is a Trojan horse.

When I heard the testimony on a registry program on the Judiciary Committee I thought, "Great idea; I want to support it." When the Senators made the announcement, I was a cosponsor. Then I saw that attached to the concept of the registry program was also a huge immigration program with no controls whatever, no way of asserting whether individuals go back, and as a matter of fact—and I will explain that shortly—setting up incentives for these people to remain in the country in a legal status. In California, this will mean literally tens of thousands of additional immigrants coming into the State. We currently have 2 million people in California in illegal status. This will only add to the number of illegal status.

Let me say how this will happen. Under the amendment, if the Department of Labor cannot find American workers—and there is no registry in place in California—this bill will go into play. The large agricultural associations will apply for 20,000, 30,000 permits at a time. The Department of Labor has 7 days to respond to that. If they don't respond to that huge number in that period of time, the permits are authorized and the foreign workers come in. There is no way of knowing who they are, whether they have any bona fide documents.

Additionally, once a worker is in this country for 10 months, they can apply for a 3-year extension. Therefore, you effectively are granting a stay of 3 years to someone who comes in. They then should return, and if they come back for one more year, they are here for all time. They gain legal status under this program. There are no caps on any numbers being brought in.

The major part of concern in this bill—and I want this in the RECORD, is section 6(b)1, the application to the Secretary of State that sets up this 7-day period when the employer submits the application for alien workers directly to the Secretary of State with a copy of the application provided to the Attorney General seeking the issuance of visas and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers.

Then there is an expedited consideration by the Secretary of 5 days.

It is physically impossible to consider 20 or 30,000 applications in 5 days. It is set up to permit the entry of large numbers of people about whom nothing will be known—whether they really will go home, whether they really will stay at the job, work at the job. I think this is going to make the Bracero Program look good in retrospect.

Now, what I object to is I would like to vote for something that would help what is becoming an increasing problem. That increasing problem is that increasingly farmers cannot find adequate labor to harvest their crops. In our State, you have these counties with 20 percent and 30 percent unemployment rates. It is amazing, but it is true. Unemployment rate is high, but the farmer cannot find the help. This is where the registry was supposed to help. But the registry and the importation program go into effect simultaneously. Consequently, if there is nobody on the registry, you have the opening to import 20, 30, 50, 75,000 workers with no limit. That is what I had hoped we would have the time to work out. We don't know whether the housing allowance will work in California. California isn't Oregon. Costs are much higher. Housing is unavailable.

AMENDMENT NO. 3282 TO AMENDMENT NO. 3258, AS MODIFIED

Mrs. FEINSTEIN. I send an amendment to the desk.

The PRESIDING OFFICER. The Chair would suggest that until the time has either been used or yielded back, an amendment is not in order.

Mrs. FEINSTEIN. All right.

Mr. KENNEDY. Mr. President, I think the proponent of the major amendment knew that this was going to be offered. I ask unanimous consent it be in order now to be able to offer the amendment.

Mr. SMITH of Oregon. We have no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3282 to amendment No. 3258.

The amendment is as follows:

On page 20, line 19, after the period, insert: "Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2-A visas that they may sponsor at the discretion of the Secretary of Labor."

Mrs. FEINSTEIN. What this does, and I quote from the amendment:

Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2-A visas that they may sponsor at the discretion of the Secretary of Labor.

This would give the Secretary of Labor the opportunity to see that there is a reasonable number attached to this limited processing time because with the limited processing time, if you apply for 50,000 people, as could well be the case in California, you would not be able to meet the processing deadline.

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

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes remaining; opposing has 3 minutes remaining.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, it is hard to do justice to the topic in 5 minutes.

Let me say I think something is happening on the floor of the Senate that takes us backward as a nation. There have been many people that have given their sweat and tears and even blood to try and improve conditions for farm workers. There have been Senators in the past that have done that. This amendment really undercuts some of this very important work.

What we are saying in this amendment is essentially this: We are saying to the growers, listen, you don't have to really worry about the market. If the growers can't find the workers, pay better wages and have better working conditions. How many more reports do we have to have, from Harvest of Shame, to reports today of working conditions? The wages and uncivilized working conditions of farm workers are a national disgrace. If the growers want to have people working for them, then just have civilized working conditions and decent wages.

What this amendment essentially says is that what we are going to do is actually add to the exploitation by enabling you growers to essentially rely on a new guest worker program. Mr. President, we don't need a new guest worker program. Senator KENNEDY talked about the GAO report. I heard the farm worker justice fund mentioned earlier. They don't talk about this as reform; they talk about it as deform. We have a very strange situation here. We are saying that the growers can't get the workers, and now what we have is a program that cuts payments for guest workers. This cuts the payments for the guest workers. So in order to attract more workers, we enable growers to rely on people coming in from other countries, and we cut their wages.

I don't call this reform. I don't call this a change for the better. What we are essentially doing is putting the Federal Government at the service of a sector—in this particular case the growers—as a source of cheap labor. It is a huge mistake. Now, if we want to do better by way of working conditions for legal workers, I am all for it. If we want to reform the Guest Worker Program, I am all for it. But that is not what this is about. This is a huge step backward.

I hear about the vouchers. I mean, I did a lot of organizing in rural communities. The question is whether there is any housing. What good does it do to have vouchers if there isn't adequate housing there? We no longer deal with that protection. Then, in addition, the three-fourths minimum work guarantee is eliminated.

Workers who used to travel long distances are now promised wages for at least three-fourths of the season for which they are being hired. That guarantee is no longer there. This essentially takes the Guest Worker Program backwards. It adds to exploitation. It undercuts the working conditions of farm workers, which are already atrocious in this country. I say to the growers, with all due respect, if you want to have more people working for you, pay decent wages, have civilized working conditions. We ought not to be asking the Federal Government to essentially move in and supply these growers with a form of cheap labor, exploited labor. This isn't reform, this is deform. I hope there will be a strong vote against it.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I yield the balance of our time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, these agricultural workers are already here. The Senator from California spoke of 2 million illegal workers already here. But we would think from the remarks of the opponents of this amendment that somehow or another we were spoiling a very good system that gave high wages, a wonderful set of attractions, and only needed to be strengthened. We aren't, Mr. President.

We have a situation that makes a violator of the law out of almost every agricultural employer in the United States of America who needs labor on a seasonal basis. What we propose to do is to say that many of these workers, whatever their conditions, are infinitely superior to the country from which they came, which is the reason they are willing to pay good money to be smuggled across our borders, several of whom die in the desert in the attempt to hide during the time that they are here, not to claim any of the rights they might otherwise have.

Our proposal would make many of them legally here, with very real rights, with the ability to go home legally and to come back again legally, rather than to have to stay because of the difficulty of crossing the border. Mr. President, tens of thousands of words have been uttered on the floor of this Senate in the last 3 weeks about the plight of our farmers, with collapsed Asian markets and lower prices. Here, for once, we have an opportunity to do something tangible for our farm community, to give them the labor that they cannot get in any legal fashion from citizens, or others, to allow them to be law-abiding, as they wish to do; and instead we have an argument that we better keep the present system; we better keep a system in which there are millions of illegal farm workers here because we don't care to try something that allows this labor to be provided legally. That is the difference.

Do we want the labor that is there now, and will be there tomorrow, to be legal labor? Or do we think the present situation with all these illegals is perfectly fine? Yes or no; up or down. Let's allow these people to be here legally, to help us to improve their own lives legally.

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

Mr. KENNEDY. Mr. President, I understand we have 5 minutes.

The PRESIDING OFFICER. Five minutes remain.

Mr. KENNEDY. I yield a minute to Senator WYDEN.

Mr. WYDEN. I thank my colleague for his patience. It has been mentioned that this is in some way a bracero program. My friends, this is not. Under the Bracero Program, for example, there was no right of first refusal for U.S. workers to available jobs in our country. That is what is different here—U.S. workers first, first dibs on any available position.

Point No. 2: There has been discussion that this amendment would in some way increase illegal immigration. Right now, of the 1.6 million farm workers, perhaps a million of them are illegal. What we are advocating is an above-ground system that guarantees fundamental protections to legal workers. Some of our opponents, it seems to me, prefer an underground system that is going to keep thousands of those workers hidden in the back of a U-Haul trailer or the trunk of a car. That is not humane. We don't want those workers in the back of a U-Haul or in the trunk of a car. We want them participating in a legal, humane system that rewards both the workers and the growers. That is why this proposal makes sense. I hope it will receive strong support from our colleagues.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have talked to the managers of the bill about the acceptance of an amendment.

I ask unanimous consent that the pending amendment be temporarily set aside.

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

AMENDMENT NO. 3283 TO AMENDMENT NO. 3258

Mr. KENNEDY. 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 Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3283 to amendment No. 3258.

The amendment is as follows:

At the end of the amendment add the following:

SEC. . PRESIDENTIAL AUTHORITY.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles: where the procedures for using the program are simple and the least burdensome for growers; which assures an adequate labor supply for growers in a predictable and timely manner; that provides a clear and meaningful first preference for U.S. farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop; which avoids the transfer of costs and risks from businesses to low wage workers; that encourages longer periods of employment for legal U.S. workers; and which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

Mr. President, as I have expressed, I have serious concerns about the development of this program. Similar kinds of programs have been considered and rejected by the Hesburgh Commission. The Barbara Jordan Commission, which really had many thoughtful men and women on it, reviewed these kinds of programs and expressed the same kinds of concerns that I have expressed here briefly this afternoon. For that reason, as well as the very important adverse impact that I think it will have on wages; and because of its impact in terms of opening up some unpredictable, unknown, and uncertain aspects of immigration policy that I oppose this.

Having said all that, I commend my friends, Senator SMITH and Senator WYDEN. They have appeared before our committees on this issue. They have been enormously constructive and positive and responsive to those that had differing views on this. They have, brought a very considerable amount of thought to this issue and they have impressed me, as I know they have all Members, about their willingness to try and work this thing through in a constructive way. I intend to vote in opposition for the reasons outlined. But I want to work with them and see if we cannot respond to these kinds of concerns. Both of them have expressed their deep-seated concerns about these issues as well. We do have differences, but they have demonstrated on this issue, as in other areas, a willingness to try and find common ground. I thank them for their courtesies to date and for their willingness to continue to develop something that is going to be effective. I and others who share this view will look forward to working with them.

Mr. President, I am prepared to yield whatever time I have to the Senator from Oregon.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator has 40 seconds.

Mr. SMITH of Oregon. Mr. President, I thank the Senator from Massachusetts.

I join in the spirit of trying to work on this issue to resolve a situation that I truly believe is broken. If we don't succeed in this, we are frankly not going to say that we are content with the status quo. The status quo is not acceptable. These people are here in this country illegally. There ought to be a way in which they can be here legally to do this work, which they want to do, and which we need them to do in order to avoid a serious crisis on the American farm.

I ask my colleagues to support this amendment. It is historic. It is important. But it is also a work in progress. This bill represents progress.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on the Kennedy second-degree amendment.

Mr. GREGG addressed the Chair.

Mr. KENNEDY. Mr. President, I ask that the underlying amendment be modified with our amendment. I ask unanimous consent that be done.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendments (Nos. 3282 and 3283) were agreed to.

Mr. KENNEDY. As I understand it, Mr. President, the proposal of the Senators from California and Massachusetts has been included in the underlying amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I thank the Chair.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. For the information of all of our Members, we will begin voting on this amendment and then proceed to final passage at approximately 3:30.

MODIFICATION TO AMENDMENT NO. 3261, AS MODIFIED, PREVIOUSLY AGREED TO

Mr. GREGG. Mr. President, I send to the desk on behalf of Senator SPECTER a technical modification to the Craig amendment numbered 3261.

"(2) Within funds appropriated in this Act for necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant U.S. attorneys and investigators in the city of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of federal law."

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

The amendment is so modified.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, while we are waiting, I would like to take a moment. We are, hopefully, about to move to final passage after the vote on the Smith amendment is taken care of.

I would like to take a moment to thank the staff for the extraordinarily hard work they put into this. Both the majority staff and the minority staff spent countless hours bringing this bill forward. It is a complicated bill. They spent the last 3 or 4 days, almost, working on it. We have seen a lot of amendments. More than a little bit of intricate thought has gone into it. It has a very complex matrix of issues. And it could not possibly have been managed without the strong and professional support that we have received from the staff.

I would like to also specifically thank former minority clerk Scott Gudes, who has moved on but whose

work for 12 years on this committee was extraordinary, and whom I very much enjoyed working with. His replacement, Lila Helms, is a great addition and has carried on Scott's exceptional work. Emelie East and Dereck Orr have also been great assets, I am sure, to the minority and to the majority, as a result of their efforts.

On my own staff, countless hours have been put in, and I especially thank Jim Morhard, who is clerk of the committee. I don't think he has seen his family, or anyone else, other than the inside of these walls for days and weeks. I very much appreciate his efforts and the expertise he has brought to this.

Along with him, the professional staff of Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, and Vas Alexopoulos have been extraordinary; Kris Pickler, and Jackie Cooney of my personal staff, and Virginia Wilbert, who have been extraordinary also, have not only put their oars in but have aggressively rowed this boat toward the shore. We hope it will arrive very soon.

It is really a team effort. And we have an extremely strong team, a team made up of Cal Ripkens and Ken Griffeys. We are very lucky to have them, and we thank them for all their time and effort.

I have been advised that the Democratic leader is willing to proceed with a vote at 3:15. We will begin voting on the Smith amendment at 3:15.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank Chairman GREGG in the first instance. I have had the occasion to handle several bills myself. I have watched it for over 30 years. Several Senators on our side of the aisle have remarked along with me in the back of the cloakroom that they have never seen a bill that was better managed and that Senator GREGG has done an outstanding job, which I want to note for the RECORD.

As the distinguished Senator stated, the staffs on both sides have just done an outstanding job. They worked around the clock. I have never seen this many amendments actually move in this short a time. It couldn't have been done, of course, without the folks here right at the front desk on both sides of the aisle.

Let me thank Jim Morhard, Kevin Linskey, Paddy Link, Carl Truscott, Dan Quam, and Virginia Wilbert, of the majority staff; and Lila Helms, Emelie East, and Dereck Orr. Actually, as Senator GREGG has pointed out, Lila has come in now to replace Scott Gudes, which is next to impossible. He was as good as there ever was. But she has already brought that statement into contest. She, Emelie East, and Dereck Orr have been working around the clock and have been doing a great job.

I am glad that the Senator from New Hampshire notes this for the RECORD. Too often we forget that we couldn't handle these bills without Scott Gudes, and Dereck Orr on our side of the aisle. I can tell you that.

Mr. GREGG. Mr. President, I ask unanimous consent that the managers' amendments be in order notwithstanding the fact that they amend language already amended.

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

AMENDMENTS NOS. 3284 THROUGH 3321, EN BLOC

Mr. GREGG. I now send to the desk a series of amendments cleared by both managers on behalf of myself and Senator HOLLINGS. I further ask they be considered and adopted en bloc and motion to reconsider these amendments be laid upon the table.

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

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. HOLLINGS, proposes amendments numbered 3284 through 3321, en bloc.

Mr. GREGG. I renew my unanimous consent request.

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

The amendments (Nos. 3284 through 3321) were agreed to, as follows:

AMENDMENT NO. 3284

TITLE I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert "forfeited" after the first comma.

On page 45, line 17, strike "13" and insert "286".

On page 5 of the Bill, on lines 8 and 9, strike the following: "National Consortium for First Responders", and insert the following: "National Domestic Preparedness Consortium".

On page 27 of the Bill, on line 10, after the words "unit of local government", insert the words "at the parish level".

On page 29 of the Bill, on line 13 after "Tribal Courts Initiative", insert the following:

", including $400,000 for the establishment of a Sioux Nation Tribal Supreme Court"

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking "or";

(2) in subsection (g)(3), by striking "minimally sufficient" and inserting "State sexual offender"; and

(3) by amending subsection (1) to read as follows:

"(1) PENALTY.—A person who is—

"(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

"(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

"(3) described in section 4042(c)(4) of title 18, United States Code and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

"(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law No. 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.".

On page 51 of the Bill, after line 9, insert the following:

SEC. 123. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

"(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.".

(b) CONFORMING AMENDMENT.—Section 200108(c) of the Police Corps Act (42 U.S.C. 14097(c)) is amended by striking "16 weeks of".

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking "$20,000" and all that follows before the period and inserting "$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

On page 66, line 5, strike the proviso "*Provided further*, That $587,992,000 shall be made available for the Procurement, acquisition and construction account in fiscal year 1999:" and insert in lieu thereof "*Provided further*, That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further*, That of funds made available for the National Marine Fisheries Service information collectin and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further*, That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further*, That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction, and $5,000,000 shall be made available for Great Bay land acquisition."

On page 72, line 15, after "(3)(L)", replace the brackets with parentheses around the phrase "as identified by the Governor" and on line 16, before the period add a quotation mark.

TITLE V—INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

On page 116, line 17, change "1998" and "1999" to "2000".

On page 117, line 6, strike "to this appropriation and used for necessary expenses of

the agency'' and insert in lieu thereof ''to and merged with the appropriations for salaries and expenses:''

On page 117, line 12, strike ''20(n)(2)(B)'' and insert in lieu thereof ''20(d)(1)(B)(ii)''.

AMENDMENT NO. 3285

(Purpose: To prohibit the publication of identifying information relating to a minor for criminal sexual purposes)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

''(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

''(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

''2261. Publication of identifying information relating to a minor for criminal sexual purposes.''.

AMENDMENT NO. 3286

(Purpose: To require Internet access providers to make available Internet screening software)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

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

(2) by inserting after subsection (c) the following new subsection (d):

''(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

''(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

''(2) DEFINITIONS.—As used in this subsection:

''(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

''(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.''.

''(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

Mr. DODD. Mr. President, I rise today to offer an amendment designed to give parents a tool to help protect their children from pornography and sexual predators on the Internet. According to Wired magazine, there are currently some 28,000 web sites containing hard- and soft-core pornography. And that number is growing at an alarming rate, it is estimated that 50 pornographic sites are added to the Internet each day.

Sadly, many of out children are, out of curiosity or by accident, exposed to such sites while surfing the web. They type in search terms as innocuous as ''toys''—only to find graphic images and language on their display terminal.

Mr. President, the Internet is profoundly changing the way we learn and communicate with people. Today, our children have unprecedented access to educational material through the Internet. It provides children with vast opportunities to learn about art, culture and history—the possibilities are endless.

However, this advanced technology also brings with it a dark side for our children. Many children who are browsing the net—often unaccompanied by an adult—come across material that is unsuitable for them, and is oftentimes sexually explicit.

Mr. President, every parent worries about strangers approaching their children in their neighborhood or on the playground at school. And they teach their children how to avoid these strangers. But, today, these strangers are literally inside our homes. They are only a mouse click away from our children. In our libraries and bookstores, we store reading material that is harmful to minors in areas accessible only to adults. Yet, in cyberspace, these same materials are as accessible to a child as his or her favorite bedtime story.

Pornography and predators are now reaching our children, via the Internet, in the privacy and safety of their own homes and classrooms. This kind of access to our children is alarming, and this invasion of our children's privacy and innocence is unconscionable.

We, as a nation, have an obligation to ensure that surfing the web remains a safe and viable option for our children. We have a responsibility to make sure that they are able to learn and grow in an environment free of sexual predators and pornographic images. Clearly, there is no substitute for parental supervision. Yet, I think we can all agree that many parents know less about the Internet than their children. Parents are convinced of the Internet's educational value, but they feel anxious about their ability to supervise children while they use it.

In my view, it is important that we encourage parents and children to use the Internet together. But clearly, it is difficult for any adult to monitor children online all of the time.

Therefore, I believe we need to provide our parents with the tools to protect and guide our children. The amendment I offer today is a modest measure designed to provide one such tool. It would ensure that Internet access providers make screening software available to customers purchasing Internet access services.

The amendment would allow customers to have the opportunity to obtain—either for a fee or no charge, as determined by the provider—screening software that permits customers to limit access to material on the Internet that is harmful to minors. Like going to the pharmacy and being asked if you want a child-proof lid for a prescription medication, my bill would require that Internet access providers ask parents whether they would like to obtain screening software.

It is not a guarantee that children using the Internet would be protected from pornography and predators. And it is not a substitute for parental supervision. But it can be an extension of parental supervision—a tool we put in their hands to help protect their kids—much as we did when we voted to give parents the v-chip.

I hope my colleagues will endorse this amendment, and I urge its adoption.

AMENDMENT NO. 3287

(Purpose: To move Schuylkill County, PA from the Eastern District to the Middle District of Pennsylvania)

SEC. . TRANSFER OF COUNTY.

(a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''Philadelphia, and Schuylkill'' and inserting ''and Philadelphia''; and

(2) in subsection (b) by inserting ''Schuylkill,'' after ''Potter,''.

(b) EFFECTIVE DATE.

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

AMENDMENT NO. 3288

(Purpose: To require a report regarding the analysis of the United States Trade Representative with respect to any subsidies provided by the Government of the Republic of Korea to Hanbo Steel)

At the appropriate place in title VI, insert the following new section:

SEC. ___. REPORT ON KOREAN STEEL SUBSIDIES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the "Trade Representative") shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

Mr. BYRD. Mr. President, this amendment addresses the continued problem of trade-distorting subsidies given by the Korean Government to its domestic steel industry. Unfair trade practices by the Korean Government are causing the U.S. steel industry—including one of West Virginia's largest employers, Weirton Steel Corporation—to lose millions of dollars. These losses impact U.S. communities, which must carry the burden of Korea's unfair practices by contending with a lower tax and job base.

I joined my colleagues in the Senate Steel Caucus in signing letters to U.S. Trade Representative (USTR) Charlene Barshefsky and U.S. Department of Commerce Secretary William Daley regarding violations by the South Korean Government of the World Trade Organization (WTO) Subsidy Code. Regrettably, the responses to those letters were not satisfactory.

My amendment would simply require the United States Trade Representative to report on Korean steel subsidies. Accurate information on unfair trade practices is vital to the future of the U.S. steel industry and its workers. This amendment would send the Korean Government a clear message that we expect our trading partners to adhere to fair trading practices, but, more importantly, it would send a message to American workers that this Congress is prepared to defend our own commercial interests and take action against the Korean Government's infringement upon U.S. rights under the WTO agreement.

U.S. imports of steel from South Korea have increased by nearly forty-five percent during the first four months of 1998. These surging Korean steel imports are possible due to the Korean government's continued use of illegal subsidies—subsidies that unfairly disadvantage the U.S. steel industry. The negative impact of these Korean subsidies cannot be ignored. Illegal foreign steel sales are severely undermining the economic stability in regions throughout our country that rely upon steel for jobs—literally taking money out of the pockets of these workers as well as their neighbors, who depend upon this industry for their livelihood.

For the U.S. steelworkers in the Upper Ohio Valley and throughout our nation, we must continue to pursue efforts to end the entry of foreign products into this country that unfairly place our domestic industries at risk. We must restore confidence in our trade laws.

I appreciate Members' support of this initiative.

AMENDMENT NO. 3289

(Purpose: To prohibit the use of funds for the enforcement in fiscal year 1999 of certain regulations regarding the Global Maritime Distress and Safety System (GMDSS) with respects to United States fishing industry vessels)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GDDSS).

GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM

Mr. MURKOWSKI. Mr. President, this amendment will delay for one year the application of the Global Maritime Distress and Safety System, abbreviated as GMDSS, to fishing industry vessels. The purpose of the delay is to allow the Federal Communications Commission (FCC) the time to address a number of serious concerns that have recently come to light involving GMDSS for fishing industry vessels. Also Mr. President, let me make clear that the delay will not affect any other type of vessel.

GMDSS is a system created by the International Maritime Organization (IMO) under the Convention on the Safety of Life at Sea (SOLAS). It was intended to improve safety for large cargo and passenger vessels on international voyages. It is scheduled to go into effect on February 1 of next year. There is no doubt that GMDSS will indeed improve safety for these types of vessels.

Fishing vessels are very specifically not covered by SOLAS, but the FCC regulation requiring GMDSS for international passenger and cargo vessels is also being applied to large domestic fishing industry vessels anyway.

Because these types of vessels operate very differently, there are serious questions as to whether the system should be applied in the same way.

The most important of the questions that has been raised for the fishing industry involves the safety and well-being not of the fishing vessels required to carry GMDSS equipment, but of the smaller vessels that work around them.

One of the things that makes GMDSS attractive to large vessels on international voyages is that it is automated, using a feature called Digital Selective Calling (DSC). Because of this, when the large vessels switch to GMDSS on February 1, they will no longer be required to maintain a continuous watch on the two emergency frequencies used under the current system.

In the United States, the watchstanding requirement has been extended to the year 2005 for VHF Channel 16, but will cease on February 1 for 2182 kilohertz. These are the two frequencies used by small vessels, including the small fishing vessels that operate in and around the larger vessels that will be required to convert to GMDSS.

When a fishing vessel is in distress, the vessels closest to it and in the best position to render aid are other fishing vessels working in the same area.

But, Mr. President, what will happen when the small vessel sends out a distress call, only to find that the larger and better-equipped fishing vessels around it are no longer listening?

This is—obviously, and with very good reason—a major concern. Under the theory of GMDSS, contact with other vessels is to be replaced by contact with a shore station. That's all well and good on an international voyage, where it may eliminate confusion and speed up response. But for fishing vessels, it may very well slow response time—and believe me, Mr. President, in the frigid waters of the Bering Sea in the winter, every second counts toward life—or toward death. Because of this, there is a very real danger that shifting the largest and most capable vessels of the fleet to GMDSS may actually degrade safety for smaller, but far more numerous vessels operating in the same areas.

In fact, although the GMDSS system is supposed to replace ship-to-ship emergency communications with a unified ship-to-shore system maintained by the Coast guard, the fact is that the Coast Guard itself is not ready to implement it fully.

With the system scheduled to go into effect in just a few months, there are still major shore-based components that have not yet been installed. In Alaska, for example, the Coast Guard

is only this summer starting the installation of medium-frequency receivers. And throughout the country, installation of VHF receivers has been delayed indefinitely—it is "on hold." According to the Coast Guard's own task force on GMDSS, the VHF system will probably not be in place before 2003 at the earliest.

The fact that GMDSS was not designed for the fishing fleet is an issue itself. Most every mariner of any sort is familiar with SOLAS, and knows that it does not apply to fishing vessels. As a result, when the FCC published the proposed GMDSS rule in 1990, and when it made the rule final in 1992, the fishing industry was not made aware that it would be applied to fishing industry vessels, which are generally treated as a separate class of vessels under U.S. law.

Indeed, when the proposed GMDSS regulation was printed in the Federal Register in 1990, it specified that fishing vessels would not be included: "Small ships, such as private fishing vessels and recreational yachts, are not affected by the proposed changes." This same statement is still being repeated, in an informational document about GMDSS that is currently offered on the FCC's Internet site.

Given this confusion, it is no wonder that the fishing industry's concerns did not surface sooner; most of the industry was unaware of the need to comment. This alone is a huge flaw in the way the rulemaking was conducted, but one that can be corrected given a little more time to explore and address the fishing industry's concerns.

Mr. President, the affected fishing industry vessels already carry all but one feature of the GMDSS system. They have VHF radios and single-side-band radios, EPIRBS, radars, radar transponders and hand-held VHF radios for their life rafts, and so forth. Each vessel already carries—at a guess—$20,000 to $30,000 worth of sophisticated communications equipment. The only thing they are lacking is the Digital Selective Calling (DSC) feature.

In a recent meeting with the Coast Guard and the FCC, we learned that there is no reason DSC could not be added to the existing equipment for a very reasonable cost—perhaps $5,000. However, the industry has indicated that electronics vendors have so far either declined to sell DSC as a separate component, or if they do, to offer a component warranty on it. Instead, they are insisting that the fishing industry purchase large consoles where all of the GMDSS equipment is pre-installed—at a cost of $50,000 to $60,000 dollars each. Because of the confined nature of the wheelhouse on the average vessel, significant structural changes may have to be made to fit the console in place, and of course, the existing $30,000 of equipment would have to be scrapped. That means, Mr. President, that the cost of outfitting these vessels may reach as much as $100,000—all to get a $5,000 piece of equipment on board. That, Mr. President, is why people get upset at their government. That, Mr. President, is just plain wrong.

These are just a few of the very serious issues that justify a delay for fishing industry vessels so that the rule can be re-examined and improved with better input from the industry. No one wants to see safety degraded in any way—including by mandating "improvements" that may be no such thing.

It may be that GMDSS is the way to go for fishing industry vessels as well as the large international cargo vessels and passenger liners it was designed for. If so, it should be adopted, and I'm sure it will be. But if not, we must take the time to listen first.

Mr. GREGG. Will the Senator from Alaska yield for a question?

Mr. MURKOWSKI. Mr. President, I am very happy to yield for a question from the distinguished manager.

Mr. GREGG. It is my understanding that this amendment will delay for one year the application of the GMDSS requirements for fishing industry vessels, but not other types of vessels. Is that the understanding of the Senator from Alaska?

Mr. MURKOWSKI. Mr. President, the manager is quite correct. This amendment will apply only to fishing industry vessels such as catcher-boats, catcher-processors, mothership processors and fish tender vessels. Other types of vessels to which the rule applies, such as cargo and passenger ships, will not be affected.

Mr. GREGG. Is it the Senator's intention that the federal agencies involved would then use this period of time to further examine the issue of applying GMDSS requirements to the fishing industry?

Mr. MURKOWSKI. Once again, Mr. President, the distinguished manager is correct. Based on discussions with the two agencies directly involved in this matter, and with the fishing industry, it is evident that the industry has legitimate concerns and questions that have not been answered. The moratorium will allow the agencies the time to revisit the issue in the detail that it deserves. I hope they will take the opportunity either to reopen the rulemaking with respect to fishing industry vessels or to open a new rulemaking that specifically deals with such vessels, so that the unique characteristics of the fishing industry are considered.

Mr. GREGG. I thank the Senator. In my view this is a very legitimate goal and I join the Senator from Alaska in expressing the hope that the agencies will revisit this matter.

AMENDMENT NO. 3290

(Purpose: To provide for the payment of special masters, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITION.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009-201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321-165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

AMENDMENT NO. 3291

(Purpose: To provide for the waiver of fees for the processing of certain visas for certain Mexico citizens and to require the continuing processing of applications for visas in certain Mexico cities)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the

requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

AMENDMENT NO. 3292

(Purpose: To require a study and report on the adequacy of processing nonimmigrant visas by United States consular posts)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term "timeliness standards" means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

Mr. GRAHAM. Mr. President, I am introducing an amendment to the Commerce/Justice/State Appropriations bill regarding the Consular Service and the issuing of tourist visas.

I strongly endorse tight immigration controls and strict visa policies to ensure that illegal aliens and criminal activity do not cross our nation's borders.

At the same time, we must recognize the economic importance of tourism in this country and ensure that legitimate foreign travelers are not penalized by an overwhelmed consular service.

To that end, I am asking the State Department to report to Congress on a regular basis the status of visa backlogs at our embassies worldwide and to conduct a study on whether the appropriate resources are being dedicated to the consular service.

Tourism is a $473 billion dollar business in the United States and our country's second largest employer, behind the health care industry.

We bring in more tourists to the U.S. than we send overseas, creating a $26 billion dollar trade surplus, equal in size to the car and auto parts trade deficit with Japan.

By the year 2007, less than ten years away, the World Tourism Organization predicts the U.S. tourism market will double to nearly $885 billion dollars.

We must make certain our consular services and visa procedures are streamlined, improved, and protective of national security interests in order to capitalize on the growing international tourism market.

I hope you can support me in requiring the State Department to study consular resources and report back on what improvements or resources are needed to make it the best in the world, a secure system that can help promote U.S. as an international destination.

AMENDMENT NO. 3293

On page 86, line 8, insert the following after the colon: "*Provided further*, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons;".

At the end to title VII, insert the following:

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

AMENDMENT NO. 3294

(Purpose: Relating to arrearage payments to the United Nations)

(The text of the amendment (No. 3294) is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 3295

(Purpose: To provide for reviews of criminal records of applicants for employment in nursing facilities and home health care agencies)

At the appropriate place in the bill, insert the following:

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

SEC. ____. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding

information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

Mr. KOHL. Mr. President, I rise today to express my gratitude to the managers for including an amendment offered by myself and Senator HARRY REID. The managers have worked hard to reach consensus on this legislation, and I commend them for their efforts.

I believe that this amendment will take another important step toward protecting our nation's elderly and disabled patients from abuse and neglect. The vast majority of employees in nursing homes and home health agencies work hard under stressful conditions to provide the highest quality care. However, there has been too many instances where people with criminal backgrounds and abuse histories have gained employment in long-term care facilities and subsequently abused patients in their care. This is inexcusable; Congress should take every step necessary to make sure that these facilities have the tools they need to screen potential employees.

During consideration of the Senate Budget Resolution, the Senate unanimously adopted my Sense of the Senate amendment, which expressed strong support for the establishment of a national background check system to weed out known abusers and people with violent criminal backgrounds. The amendment that is included in the manager's package today takes this one step further. This amendment authorizes nursing facilities and home health care agencies to utilize the FBI fingerprint background check system to screen potential employees. It is important to note that this amendment does not mandate that these facilities conduct the checks. It simply allows them to access the FBI system if they choose to do so.

Many States, nursing facilities and home care agencies have already taken steps to better screen their long-term care employees. This amendment will give them another tool to use in their efforts to screen out known abusers. However, our job does not end here. I still believe that Congress must act to establish a national registry that will coordinate abuse information between States, and require that all long-term care facilities utilize both the registry and the FBI system. I have been working for passage of such legislation, and I am pleased that the President has recently endorsed my idea as well. I look forward to working with the President and all of my colleagues in the future on this important effort.

It is vital that we continue to take steps to protect our most vulnerable citizens from abuse, neglect and mistreatment, especially at the hands of those who are charged with their care. I believe that this amendment is another step in that direction. Again, I thank the managers for working with me in this effort. I yield the floor.

AMENDMENT NO. 3296

(Purpose: To prohibit the use of funds for foreign travel or foreign communications by officers and employees of the Antitrust Division of the Department of Justice)

On page 51, between lines 9 and 10, insert the following:

SEC. 121. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. *Provided, however*, That this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201–6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

Mr. GORTON. Mr. President, the Justice Department is out of control, Mr. President. Evidence appears to be mounting that officials at the Department's Antitrust Division have been traveling around the world urging foreign governments to join them in their witch hunt against Microsoft.

As far as this Senator is concerned, such action should be prohibited.

It seems the Administration is reaching out a helping hand to U.S. competitors overseas. While foreign governments work hard to protect their most important industries, our Justice Department is assisting those foreign governments in their efforts to keep one of America's most vibrant, innovative, and successful companies out of their markets.

In a letter sent last week to Attorney General Janet Reno, my colleagues Senators SESSIONS, ABRAHAM, and KYL raised some provocative questions about the activities of Justice Department officials overseas. They have learned that Joel Klein and his staff at the Department's Antitrust Division are busily recruiting their foreign counterparts in their war against Microsoft.

First and foremost, Mr. President, I'd like to know what Justice Department officials, whose work focuses exclusively on issues here at home, are doing traveling overseas at the taxpayers' expense. According to the letter, in the last six months, Joel Klein has traveled to Japan, Russell Pittman, Chief of the Competition Policy Section of the Antitrust Division has visited Brazil, Dan Rubinfeld, chief economist for the Antitrust Division has gone to Israel, and Deputy Assistant Attorney General Douglas Melamed spent a week in Paris in June.

At a time when Joel Klein has been complaining that his division does not have enough money or people to do its job effectively, he and his staff are traveling around the world on the Justice Department's dime. And they are using those foreign visits as a bully pulpit to tout the merits of their case against Microsoft and encouraging foreign governments to join in the attack.

This kind of activity is reprehensible. It is even more egregious when one notes that it is being financed by the American people—many of whom may wind up losing their jobs and their livelihood if Joel Klein is successful.

Here is the evidence my colleagues have compiled to date:

Joel Klein visited Japan to meet with the Japanese Fair Trade Commission last December. A month later, the Trade Commission raided Microsoft's Tokyo offices, confiscating thousands of company documents.

When Russell Pittman went to Brazil in May, he spoke publicly to senior Brazilian government officials responsible for antitrust enforcement in that country, outlining the Justice Department's case against Microsoft in detail. Nine days later, The Brazilian government announced its intention to begin legal proceedings against the company.

A quote from Mr. Pittman at this event is particularly troubling, and, I might add, somewhat ironic. He accused Microsoft of behaving "like an arrogant monopolist, even acting arrogantly in its relations with the antitrust authorities, it will receive from these agencies what it deserves." Who is calling whom arrogant? A government bureaucrat on a taxpayer funded jaunt to Brazil? If the situation were not so serious, I would find this quote to be quite amusing, Mr. President.

In Israel in May, Dan Rubinfeld gave a public speech on the Department's case against Microsoft to an audience that included Israeli officials responsible for antitrust enforcement. He later met privately along with his sidekicks from the Federal Trade Commission with a group of Israeli government officials to outline the DOJ's complaint against Microsoft.

Not surprisingly, the Israeli government is now in discussions with Microsoft concerning its business practices in that country.

And finally, on June 8th, Douglas Melamed briefed the OECD's Competition Law and Policy Committee in Paris on the strengths of the Department's case against Microsoft. The OECD Committee includes officials from Europe, Japan, Canada, and Brazil.

I applaud Senators SESSIONS, ABRAHAM, and KYL for bringing this issue to light, Mr. President. It is just one in a series of steps by the Administration to tie the hands of successful U.S. companies.

Thousands of jobs in my home state of Washington are being put on the line by a contemptuous group of bureaucrats over at the Justice Department.

That is why I have decided to offer an amendment today to prohibit the Justice Department from soliciting or encouraging foreign governments to engage in antitrust against U.S. companies defending themselves against antitrust suits filed by the U.S. government here at home. My amendment is narrow in scope. It was carefully drafted to ensure that it is not overreaching.

It will simply ensure that Joel Klein and his staff at the Antitrust Division do not travel abroad at the expense of U.S. taxpayers for the purpose of encouraging foreign governments to attack successful U.S. businesses.

I assure my colleagues that I am very disappointed that this amendment is necessary at all. That U.S. government officials in this Administration are engaged in practices that serve no other purpose than to harm U.S. companies, their employees, their families of their employees, and the small businesses whose livelihoods depend on the success of those companies is truly disheartening.

I urge my colleagues to join me in condemning the actions of Antitrust Division officials and to pass this important amendment today. Attorney General Reno and Assistant Attorney General Klein need to know that their actions will not go unnoticed and that they cannot continue down their current path of denouncing U.S. businesses overseas.

Mr. HATCH. Mr. President, at the outset, let me say that I don't support the Department of Justice divulging confidential information to foreign governments in an attempt to encourage them, in any way, to take or threaten legal action against any U.S. company. I don't think the Department has done that. They assure me that they have not done that.

I am aware of the letter that was sent to the Department inquiring whether the Department has encouraged any foreign antitrust authority to take action against Microsoft. I await the Department's formal response to the letter sent by my colleagues. If—and I emphasize if—the Department of Justice was encouraging foreign countries to bring a cause of action against Microsoft—or any other American company—I would do all I can to put a stop to it. The Department of Justice has a responsibility to enforce U.S. antitrust laws—not Japan's, Brazil's or the European Union's. But having said that, the Department assures me they have done no such thing.

I have to say, though, that, if Microsoft's charges prove groundless, one could reasonably conclude that this appears to be an assault, albeit a faint one, by Microsoft, on the Department of Justice's ongoing efforts to investigate potential violations of U.S. antitrust laws. When I first heard about this allegation, I was surprised that this is the best "offensive" more that their team of lobbyists and Washington lawyers could come up with. I was expecting a much more innovative strategy, given the reported offensive Microsoft has threatened to launch against the Department of Justice. As I said before, I too oppose efforts by our government to encourage or solicit any foreign government to take hostile actions against a U.S. company.

However, I had a concern that any such amendment not hinder the ability of the Antitrust Division to investigate violations of our—United States'—antitrust laws. And also it does not prohibit mutual assistance that the Department and its foreign counterparts provide to each other under a ratified treaty or as authorized by the International Antitrust Enforcement Assistance Act of 1994.

Mr. President, I want to thank Senator GORTON and his staff for his cooperation and willingness to work with me and ensure that the amendment does not have any such adverse impact. With this modification I am happy to lend my support to this amendment.

The International Antitrust Enforcement Assistance Act passed the Senate unanimously in 1994. Let me also say that my friend and colleague, Senator GORTON, did not object to it then. This statute provides the important authority for the Attorney General when a mutual assistance agreement is in place, to cooperate with foreign agencies in assisting each other's efforts to prevent illegal antitrust activities. Given the increasingly international scope of the antitrust laws, it is crucial that the enforcement agencies have sufficient legal authority and the necessary tools to obtain information located abroad that would help them protect American consumers and businesses from antitrust abuses.

Finally, I again want to thank Senator GORTON for his cooperation and willingness to work with me and I am happy that we were able to work out our concerns with this amendment.

AMENDMENT NO. 3297

(Purpose: to exempt orphans adopted by United States citizens from grounds of removal)

At the appropriate place in the bill, insert the following:

SEC. . EXCEPTION TO GROUNDS OF REMOVAL.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F)", unless that alien has knowingly declined U.S. citizenship.

AMENDMENT NO. 3298

(Purpose: To prevent disclosure of personal and financial information of corrections officers in certain civil actions until a verdict regarding liability has been rendered)

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal,

State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

AMENDMENT NO. 3299

(Purpose: To allow continued helicopter procurement by Border Patrol)

In the appropriate place, insert the following:

"*Provided further*, That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft."

AMENDMENT NO. 3300

(Purpose: To extend temporary protected status for certain nationals of Liberia)

At the appropriate place in the bill insert the following:

SEC. . EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA.

(a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

Mr. REED. Mr. President, I rise to commend my colleagues for including an extension of Temporary Protected Status for Liberians until September 30, 1999 in the Fiscal Year 1999 Commerce, Justice, State Appropriations bill.

The histories of Liberia and the United States have been intertwined since 1847 when our nation's founding fathers helped freed American slaves found the sovereign state of Liberia. The first Liberians adopted the U.S. Constitution as a model and named the capital of the new country Monrovia, after President James Madison. Diplomatic, military and trade relations flourished between the two countries until the late 1980's.

Then, in December 1989, Liberia was engulfed by a civil war that would last for seven years and continue to boil below the surface. Over 150,000 people died and more than one-half of the population fled the country or was internally displaced. During the conflict, food production was halted and the country's infrastructure was destroyed.

Several thousand Liberians who were forced from their homes because of the civil war sought refuge in the United States. In 1991, the Attorney General determined that Liberia was experiencing an ongoing armed conflict which prevented Liberian nationals from safely returning home. She granted Liberians who were present in the United States on March 27, 1991 temporary protected status (TPS), which provides temporary relief from deportation. Because the conflict in Liberia continued to rage, the Attorney General extended TPS each year for the next six years. Furthermore, conditions in Liberia deteriorated to such an extent in 1996, that the Attorney General "redesignated" TPS for Liberians who arrived after March 27, 1991 but were living in the United States on June 1, 1996. Never before in history had the Attorney General been compelled to redesignate a state for TPS.

Recently, however, the Attorney General declared that TPS would end for all Liberians on September 28, 1998. It is true that on July 19, 1997, Liberians elected former warlord Charles Taylor president and 300 international observers deemed the election free and fair. It is also true that this new government has pledged to rebuild the economy and reconcile the ethnic factions.

However, there are signs which indicate that Liberia is not as safe and stable as many would like to believe. In early December 1997, a prominent opposition leader was assassinated. Furthermore, a newspaper and two radio stations were temporarily shut down by the government.

A pastor of a church in my home state of Rhode Island had a conversation just yesterday with an individual who just returned from Liberia who stated that people in Liberia are afraid to criticize the government in any way. The secret police sweep neighborhoods at night, people disappear and bodies mingle with garbage under a bridge in Monrovia.

I would also like to relay the comments of Bishop Arthur Kulah to my colleagues who may wish to know why TPS is still needed. Bishop Kulah is a United Methodist leader who lost his parents and two brothers in the civil war. He recently spoke with Liberians living in Rhode Island and when they asked if it would be safe to return when TPS was terminated, he replied, "People who have been fighting for ten years will not suddenly change. It may be quiet and then flare up overnight. The disarmament was not complete. People still have guns."

This weekend the Liberian community in Rhode Island will celebrate the 151st anniversary of Liberia's independence. They will celebrate the history and culture of their country and look forward to the day when they can safely go home. But that time is not now, Mr. President. They came to this country seeking peace and security. We have an obligation to offer them refuge until it is truly safe to go back.

AMENDMENT NO. 3301

(Purpose: To provide for the adjustment of status of certain asylees in Guam)

At the appropriate place in the bill, insert the following:

SEC. ___. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.

(a) ADJUSTMENT OF STATUS

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

AMENDMENT NO. 3302

(Purpose: To focus resources of the Department of Justice on prosecuting violations of federal gun laws)

On page 9, beginning on line 15, strike "Attorneys." and insert the following: "Attorneys: *Provided further*, That of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended."

AMENDMENT NO. 3303

(Purpose: Relating to information infrastructure grants of the National Telecommunications and Information Administration)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under "DEPARTMENT

OF COMMERCE" is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under "DEPARTMENT OF COMMERCE" except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION" and under the heading "INFORMATION INFRASTRUCTURE GRANTS".

(B) Amounts appropriated under any heading under "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY".

(C) Amounts appropriated under any heading under "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION".

(c)(1) Notwithstanding any other provision of this Act, the second proviso under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

AMENDMENT NO. 3304

(Purpose: To amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products)

At the appropriate place, insert the following new section:

SEC. ___. AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

"(a) IN GENERAL.—

"(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

"(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

"(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(b) JOINT RESOLUTION.—

"(1) IN GENERAL.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on _____.', with the blank space being filled with the appropriate date.

"(2) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) REFERRAL.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

"(4) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) CONSIDERATION IN SENATE AND HOUSE OF REPRESENTATIVES.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".

AMENDMENT NO. 3305

On page 101, line 17, insert after the period: "*Provided*, That, of this amount, $1,400,000 shall be available for Student Incentive Payments."

Mrs. HUTCHISON. Mr. President, I rise to explain a provision included in the Commerce, Justice, State appropriations bill manager's amendment and to convey my thanks to Senator GREGG and Senator HOLLINGS for including it. This provision directs funding for the Student Incentive Payment (SIP) program for FY99.

I am very concerned about language in the Administration's budget calling for a four-year phase-out of SIP, beginning in FY99. These payments are used to help students at state maritime schools defray the cost of their education. In exchange for an annual stipend while they are in school, these students incur a 6 year obligation in the Navy and Merchant Marine Reserve. They represent an important element of the Navy's professional mariners and a cadre of trained professionals available in the event of a national emergency when activation of the Ready Reserve Fleet is required.

I commend the subcommittee for sharing my concern. The subcommittee report reflects this concern by calling upon MARAD to report on the willingness of the Navy to pay for the program. However, I understand that discussions between the Navy and MARAD are still on-going which, while encouraging, may mean that the incoming class at state maritime academies may not be able to take advantage of SIP as their classmates ahead of them have, and those behind them hopefully will. If we are going to ensure continuity, we have to fund SIP for another year in this bill.

This provision restores SIP funding in the FY99 budget, preserving the program in order to allow the Navy to assume the funding responsibility beginning in FY2000. I am pleased that we have bought more time for MARAD and the Navy to negotiate the transfer of financial responsibility for this program. I am very hopeful that we will have a negotiated continuation of SIP under the Navy in FY2000 and beyond. I thank the Chairman for working with me to ensure this result.

AMENDMENT NO. 3306

(Purpose: To require certain new employees in the Office of the United States Trade Representative to work exclusively on investigating the acts, policies, and practices of the Canadian Wheat Board and whether the acts, policies, or practices cause material injury to the United States grain industry, and for other purposes)

At the appropriate place in title VI, insert the following new section:

SEC. ___. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) SCOPE OF INVESTIGATION.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) ACTION BASED ON RESULTS OF THE INVESTIGATION.—

(1) IN GENERAL.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) CORRECTION OF HARMONIZATION PROBLEMS.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the terms "Canadian grain" and "grain" include spring wheat, durum wheat, and barley.

AMENDMENT NO. 3307

(Purpose: To preserve and enhance local FM radio service for underserved counties)

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

"(c) FM TRANSLATOR STATIONS.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

"(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

"(B) authority to operate the station (either omindirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

"(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

"(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

"(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

"(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

"(A) may accept or receive any amount of theoretical interference from any full service FM station;

"(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

"(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

"(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

"(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

"(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

"(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

"(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).".

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

"SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.".

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

AMENDMENT NO. 3308

(Purpose: To provide for a study of sediment control at Grand Marais, Michigan)

At the appropriate place in title II, insert the following:

SEC. 2___. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

AMENDMENT NO. 3309

(Purpose: To establish certain limitations with respect to build-out and moving costs of the Patent and Trademark Office)

On page 62, lines 3 through 16, strike "That if the standard build-out" and all that follows through "covered by those costs." and insert the following: "That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.".

AMENDMENT NO. 3310

(Purpose: To require that reports submitted to the Committee on Appropriations concerning matters within the jurisdiction of the Committee on the Judiciary also be submitted to the Committee on the Judiciary)

On page 51, line 9, add a new section 121:

"SEC. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns matters within the jurisdiction of the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives."

AMENDMENT NO. 3311

(Purpose: To amend the Immigration and Nationality Act to eliminate, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal, and for other purposes)

At the end of the bill, add the following:

TITLE ____—VAWA RESTORATION ACT

SEC. ____01. SHORT TITLE.

This title may be cited as the "VAWA Restoration Act".

SEC. ____02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting "of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after "The status";

(2) in subsection (a), by adding at the end the following: "An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).";

(3) in subsection (c)(2), by striking "201(b) or a special" and inserting "201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special";

(4) in subsection (c)(4), by striking "201(b))" and inserting "201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))";

(5) in subsection (c)(5), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))" after "an alien"; and

(6) in subsection (c)(8), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)" after "any alien".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. ____03. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

"(1) TERMINATION OF CONTINUOUS PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.".

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

"(C) Aliens whose removal is canceled under subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—"; and

(B) in clause (i)—

(i) by striking "or" at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. ____04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.); or

(ii) section ____03 of this title.

AMENDMENT NO. 3312

(Purpose: To amend the Violence Against Women Act of 1994 to ensure greater protection of elderly women)

On page ____, after line ____, insert the following:

SEC. ____. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ", including older women" after "combat violent crimes against women"; and

(ii) by inserting ", including older women" before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ", including older women" after "against women";

(ii) in paragraph (6), by striking "and' after the semicolon;

(iii) in paragraph (7), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.";

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting "and elder domestic abuse experts" after "victim services programs"; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking "and' after the semicolon;

(B) in paragraph (8), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) the term 'elder' has the same meaning as the term 'older individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

"(10) the term 'domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

"(A) a current or former spouse of the victim;

"(B) a person related by blood or marriage to the victim;

"(C) a person who is cohabitating with or has cohabitated with the victim;

"(D) a person with whom the victim shares a child in common;

"(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

"(F) a person similarly situated to a spouse of the victim, or by any other person;

if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

Mr. DURBIN. Mr. President, I rise today to introduce this amendment with my distinguished colleagues Senators COLLINS, JEFFORDS, REID, HARKIN, MIKULSKI, CLELAND, and GRAHAM.

Unfortunately for some, domestic violence is a life long experience. Those who perpetrate violence against their family members do not desist because the family member grows older. In fact, in some cases, the abuse may become more severe as the victim ages becoming more isolated from the community with their removal from the workforce. Other age-related factors such as increased frailty may increase a victim's vulnerability. it also is true that older victims' ability to report abuse is frequently confounded by their reliance on their abuser for care or housing.

Every seven minutes in Illinois, there is an incidence of elder abuse. Several research studies have shown that elder abuse is the most under reported familial crime. It is even more under reported than child abuse with only between one in eight and one in fourteen incidents estimated to be reported. Seniors who experience abuse worry they will be banished to a nursing home if they report abuse. They also must struggle with the ethical dilemma of reporting abuse by their children to the authorities and thus increasing their child's likelihood of going to jail. Shame and fear gag them so that they remain "silent victims."

The Commerce-Justice-State Appropriations bill funds the STOP law enforcement state grants program. This program provides funding for services and training for officers and prosecutors for dealing with domestic violence. This training needs to be sensitive to the needs of all victims, young and old. However, the images portrayed in the media of the victims of domestic violence generally depict a young woman, with small children. Consequently, may people including law enforcement officers may not readily identify older victims as suffering domestic abuse. The victims themselves may also be reluctant to report such abuse. Many older women were raised to believe that family business is a private matter. Problems within families were not to be discussed with anyone, especially strangers or counselors. Only a handful of domestic abuse programs throughout the country are reaching out to older women.

This amendment seeks to improve the STOP grants program by making it more sensitive to the needs of the nations seniors. We know that great improvements have taken place since the Violence Against Women Act was first passed. One of the most successful programs is the law enforcement and prosecutor training program, which received over $200 million in FY 1998. This bill would increase that level to $210 million. Improvement in this program can be made with respect to identifying abuse among all age groups especially seniors who are often overlooked. When the abuser is old, there may be a reticence on the part of law enforcement to deal with this person in the same way that they might deal with a younger person. Who wants to send an "old guy" to jail? However, lack of action jeopardizes the victim further because then the abuser has every reason to believe that there are no consequences for their actions. Another common problem is differentiating between injuries related to abuse and injuries arising from aging, frailty or illness. too many older women's broken bones have been attributed to disorientation, osteoporosis or other age-related vulnerabilities without any questions being asked to make sure that they are not the result of abuse.

With the greying of America, the problems of elder domestic abuse in all its many ugly manifestations, is likely to grow. I believe that we need to take a comprehensive look at our existing family violence programs and ensure that these programs serve seniors and are sensitive and knowledgeable of elder domestic abuse.

I am pleased to be joined by Senators REID, HARKIN, CLELAND, MIKULSKI, GRAHAM, JEFFORDS, and COLLINS in offering this amendment, which focuses attention on the needs of the "forgotten older victims of domestic violence."

Mr. BIDEN. Mr. President, the Violence Against Women Act of 1994 included vital provisions to protect abused immigrant women—so they wouldn't have to choose to stay in an abusive marriage or be deported from America

This has helped a relatively small number of battered women—a few thousand each year—but it was important that we—on a bipartisan basis—took this moral step.

Since 1994, we have found other ways in which we in effect force women to remain in abusive marriages and rely on their abusive husbands for their immigration status.

This amendment restores the protections of the original Violence Against Women Act in four key ways:

By ensuring that battered women are included in the narrow immigration provision already included in this bill.

By preventing the roughly 1500 women per year who complete the full process of proving that they are in fact battered from being deported solely because of some arbitrary limits.

By allowing the Immigration and Naturalization Service to permit a battered woman to remain in the U.S. even though she has left the country for a brief period—provided that she has an understandable reason (such as in the case of a woman who was literally taken to Mexico against her will).

And by requiring the Immigration and Naturalization Service to give a battered woman an opportunity to prove that she was battered and eligible for Violence Against Women Act relief before deporting her under an order issued without her notice.

This is an important amendment—even though it will affect a modest number of battered women. I am pleased that this amendment is cosponsored by Senators ABRAHAM, KENNEDY, LEAHY, WELLSTONE and others. I am also pleased that this amendment has been accepted and will be adopted by the full Senate unanimously.

Ms. COLLINS. Mr. President, I rise today to support the amendment introduced by my distinguished colleague from Illinois, Senator DURBIN, to strengthen the capability of our law enforcement community to protect older women from violence.

There is no conduct less consistent with the precepts of a civilized society than the physical abuse of those unable

to defend themselves. Our recognition of this has led to an aggressive and ongoing campaign against child abuse, and it must lead to an equally strong response to domestic violence directed at older Americans.

Mr. President, at a 1995 hearing in Portland, Maine, chaired by my predecessor, Senator Cohen, elder abuse was aptly described as "society's secret shame." Family violence, particularly when directed at the elderly, was a major concern of Senator Cohen, and I welcome the opportunity to continue his efforts to combat this intolerable mistreatment of older Americans.

Mr. President, earlier this year my home state released its crime statistics for 1997. I was cheered by the wonderful news that crime fell by 8.7% from 1996, to the lowest rate in at least 20 years. Hidden behind this positive statistic, however, was one that was very disquieting, namely, that domestic violence increased by 7.8%. Ironically, at the same time as we are becoming less likely to be harmed by strangers, many of our neighbors face an increasing threat from members of their own households.

National data demonstrate that cases of domestic elder abuse, which includes neglect as well as physical abuse, are steadily increasing. From 1986 to 1996, the number of cases went from 117,000 to 293,000, an increase of 150%. Furthermore, there is widespread agreement that this type of abuse is greatly underreported. For example, although the number of reported cases in 1994 was 241,000, the National Center on Elder Abuse estimates that the true number of cases was 818,000.

Mr. President, while these numbers indicate a serious and growing problem, all of the statistics in the world do not describe the problem as eloquently as the words of a single victim. At the Maine hearing, one such victim told what happened to her at the hands of her husband after her children left home.

> [T]hings got really bad. I had two broken wrists, cracked ribs, held down with his knee on my chest with a knife at my throat. I was made to crawl across the floor with a gun resting on my head, ready to fire. I've been choked until I was limp, and then he would drop me on the floor with a kick. I've been spit on, thrown through a window, dragged into the lake as he said he was going to drown me.

Astonishingly, but not atypically, the witness was married to her husband for 44 years.

Mr. President, this type of treatment cannot be tolerated. As a cosponsor of the Durbin amendment, I sincerely hope that my colleagues will take this modest step to enhance the ability of the law enforcement community to protect this vulnerable segment of our society.

AMENDMENT NO. 3313

(Purpose: To modify the membership of the Federal-State Joint Board on universal service)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) MEMBERSHIP OF JOINT BOARD.—

"(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

"(i) 3 shall be members of the Federal Communications Commission;

"(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

"(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

"(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

"(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.".

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998, (CC Docket No. 96-45; FCC 98-160) relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairmen of the Joint Board have been chosen under that section.

Mr. BROWNBACK. Mr. President, I have offered an amendment that would provide rural States with a stronger representation on the Federal-State Joint Board on Universal Service (Joint Board).

Such a change is necessary because critical universal telephone service issues have been mishandled by the Joint Board since the passage of the Telecommunications Act of 1996.

The Joint Board was intended to provide the States with an opportunity to help craft national universal service policy because the States are more experienced in dealing with these issues than their national counterparts.

The Act created the Joint Board and required the Board to make recommendations concerning how the Federal Communications Commission (FCC) should implement the universal service provisions contained in the Act.

However, the Joint Board was chaired by former FCC Chairman Reed Hundt, and the Board made recommendations that undermine rural interests and put upward pressure on rural residential telephone rates.

The Joint Board needs greater representation from the States, especially rural States. My amendment would do the following:

Add an additional State Utility Commissioner to the Joint Board.

Require that two of the five State Utility Commissioners serving on the Board represent rural States.

Require that one of the State Commissioners and one of the FCC Commissioners serve as Co-Chairmen of the Joint Board.

Mr. President, this amendment would ensure that rural interests are adequately represented on the Joint Board, and that the recommendations made to the FCC are consistent with the universal service goals of the Act.

Mr. President, I have been very frustrated with the manner in which universal service issues have been addressed by the Joint Board and the FCC since the passage of the Act. Although it is the most important part of universal service, the high-cost piece has been getting the short shrift.

The FCC has just referred a number of critical high-cost issues back to the Joint Board for its consideration. This amendment is critical because rural communities across the country need to be effectively represented on the Board as it reviews these issues. The States, especially rural States, have the most experience dealing with the high-cost issues, and the recommendations of the Joint Board must adequately reflect their input and their expertise.

AMENDMENT NO. 3314

(Purpose: To provide for the nonpoint pollution control program of the Coastal Zone Management program of the National Oceanic and Atmospheric Administration)

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

NONPOINT POLLUTION CONTROL

Mr. TORRICELLI. Mr. President, I would like to thank Senators GREGG and HOLLINGS for accepting this amendment to the Commerce, Justice, State and Judiciary Appropriations Bill which directs $3 million to the implementation of nonpoint pollution control plans in the Coastal Zone Management Program.

I rise to draw this country's attention to the national significance of our coasts as an integral part of our national infrastructure. As we approach the next century, we must treat them like our roads, schools, and technology, as the foundation of economic development, job creation, and current prosperity. Our coasts are a central element of the tourism industry which nationally employs 14.4 million people and contributes over 10% to our GDP, making it the second-largest sector in the economy.

With more than 50% of the nation's population living within 50 miles of the shore, our coastal areas are heavily used resources under severe environmental pressures from land development and associated activities as well as seasonal pressures from summer vacationers. For example, over 400,000 people live in the immediate vicinity of the Barnegat Bay estuary in New Jersey; in the summer that number doubles to 800,000. The popularity of Barnegat Bay has caused non-point source pollution from runoff and storm water discharges resulting in blooms of brown tide algae in 1995, 1997, and as recently as last month. Polluted runoff is the major reason why pfiesteria and hazardous algal blooms frequently close rivers, kill fish and make people sick. Nationwide, 40% of our waters are not fit for fishing and swimming; 30% of our shellfish beds are closed or restricted for harvest; and 2500 beaches were declared unsafe for swimming in 1996.

Created in the 1970's, the Coastal Zone Management (CZM) Program is a voluntary partnership between the federal government and coastal states and territories to preserve and restore our coastal areas. The program encourages the wise use of land and water resources through the preparation of special area management plans to protect natural resources while providing for coastal dependent economic growth.

Section 6217 of the 1990 Coastal Zone Reauthorization Amendments requires states and territories with approved coastal zone management programs to develop and implement coastal nonpoint pollution plans. Through prior federal assistance, 29 plans (see attachment) have been conditionally approved and are ready for implementation. (In addition, Texas, Georgia, and Ohio, recently entered the CZM program and will also be working to develop nonpoint runoff plans.) The premise behind this amendment is simple: the federal government must continue to support those who have developed nonpoint pollution plans and are now ready to implement them. These funds are an investment in our future, an investment that will pay dividends not just for our towns and states, but for the entire country and for generations to come.

I ask unanimous consent that the list of states with approved plans be entered into the RECORD.

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

STATES AND TERRITORIES WITH APPROVED COASTAL NONPOINT POLLUTION PLANS

Alabama	New Hampshire
Alaska	New Jersey
American Samoa	New York
California	North Carolina
Connecticut	Northern Mariana Islands
Delaware	Oregon
Florida	Pennsylvania
Guam	Puerto Rico
Hawaii	Rhode Island
Louisiana	South Carolina
Maine	Virgin Islands
Maryland	Virginia
Massachusetts	Washington
Michigan	Wisconsin
Mississippi	

AMENDMENT NO. 3315

On page 34, line 20, insert the following: Strike "65,960,000" and insert "66,960,000".

On page 34, line 19, insert the following: Strike "$119,960,000" and insert "$120,960,000".

AMENDMENT NO. 3316

(Purpose: To provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

AMENDMENT NO. 3317

On page 128, line 9, strike "(1)";

On page 129, line 3, strike "(2)" and insert in lieu thereof "(b)"; on line 6, strike "paragraph (1)" and insert in lieu thereof "subsection (a)"; on line 14, strike "(3)" and insert in lieu thereof "(c)"; strike "subsection" and insert in lieu thereof "section".

On page 129, strike all of the subsection "(b)" beginning on line 18 to the end of the subsection on page 130.

AMENDMENT NO. 3318

(Purpose: To provide for funding for a firearm violation demonstration project)

On page 9, line 15, strike the period and insert the following: ":*Provided further*, That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.".

AMENDMENT NO. 3319

(Purpose: To require the submission in advance of a certification to Congress before certain funds are disbursed for contributions to the United Nations)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

AMENDMENT NO. 3320

At the appropriate place in Title IV, insert the following new section:

SEC. . BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term "International Criminal Court" means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321

(Purpose: To prohibit the availability of funds for the International Criminal Court unless the agreement establishing the Court is submitted to the Senate for its advice and consent to ratification as a treaty)

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

Mr. GREGG. I very much appreciate the kind comments obviously of the Senator from South Carolina. This bill has been a fairly complicated exercise, but its movement is entirely tied to

the fact that the Senator from South Carolina brings to this floor extraordinary expertise and professionalism. It is a joy to work with him because his knowledge of how to move things around here is second to none and his history as to where some of the issues lie is equally dramatic, and so I greatly appreciate the chance to work with him. I thank him for all of his support and effort. This has been a bill that has moved forward as a result of the strong support of the Senator from South Carolina.

Mr. HOLLINGS. I thank our chairman. Has our managers' amendment been adopted?

Mr. GREGG. Yes.

Mr. HOLLINGS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, the Manager's Amendment includes $800,000 to hire additional assistant U.S. attorneys and investigators in Camden County, New Jersey. This amendment builds on an initiative that was originally proposed by Senator SPECTER. At his request, the bill provides $1.5 million to hire additional assistant U.S. attorneys and investigators in Philadelphia to enforce federal laws designed to keep firearms out of the hands of criminals.

I appreciate Senator SPECTER's effort. I think that additional law enforcement funding will help stop the gun carnage on our streets. My amendment would expand this effort into Camden, which neighbors Philadelphia. I want to ensure that the crackdown in Philadelphia does not simply push gun criminals into Camden. Clearly, a cooperative effort will provide a more comprehensive solution for the entire region.

I want to thank Senator GREGG and Senator HOLLINGS for their help with this amendment.

Mr. MCCONNELL. Mr. President, will the distinguished manager of the bill, Senator GREGG, yield for a colloquy?

Mr. GREGG. I am happy to yield to the Senator from Kentucky for a colloguy.

Mr. MCCONNELL. Mr. President, the Communications Assistance for Law Enforcement Act of 1994 (CALEA) was intended to preserve the ability of law enforcement agencies to conduct court-approved wiretaps on new digital networks. Implementation of this important legislation is currently two-and-one-half years behind schedule because industry and law enforcement have not been able to reach agreement on technical standards required under CALEA. In March of this year, the Department of Justice, the FBI, industry, and privacy groups all agreed that the Federal Communications Commission (FCC) should resolve the technical capability standards dispute as envisioned under CALEA. The latest information I have from the FCC is that the Commission does not expect to issue a final electronic surveillance capability standard until late this year.

Does the Senator from New Hampshire agree that the FCC should make this decision?

Mr. GREGG. I believe that the FCC should move expeditiously to resolve this matter.

Mr. MCCONNELL. After the statutory compliance date—October 25, 1998—telecommunications carriers could be subject to fines of up to $10,000 per day for failure to deploy equipment to meet CALEA compliance standards that currently do not exist and will not exist until the FCC sets the standard. According to industry sources, telecommunications equipment manufacturers will need approximately two years after the FCC sets a final standard to develop technology to meet the new standard.

CALEA authorized the Attorney General to reimburse the industry up to $500 million for the costs directly associated with modifying equipment that was installed or deployed before January 1, 1995 (the statutory "grandfather date"). Since January 1, 1995, a significant portion of all wireline switches, a majority of cellular switches, and virtually all personal communications services devices have been installed.

Mr. President, I am concerned that if the FCC sets a new CALEA technical capability standard and there is no change to the January 1, 1995 statutory grandfather date, industry may be required to retrofit that equipment at their own expense at a cost that could exceed hundreds of millions of dollars.

I do not think that the American people want to pay what could be considered an electronic surveillance tax running into the hundreds of millions of dollars. I know that the people in my state of Kentucky do not. I recognize that this is a complicated controversial issue, but I believe that Congress must act this year to adjust both the statutory compliance and grandfather dates contained in CALEA to allow the statute to work and avoid the prospect of an electronic surveillance tax on consumers.

I would like to work with the Chairman and the distinguished Ranking Member of the Subcommittee, Mr. HOLLINGS of South Carolina, to see if together, we can find a way to address this problem this year.

Mr. GREGG. I would be happy to work with the distinguished Senator and Senator HOLLINGS, the ranking member of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies on this issue.

Mr. MCCONNELL. I thank the Chairman, and I yield the floor.

REPEAL OF SECTION 110 IN CJS APPROPRIATIONS BILL

Mrs. MURRAY. Mr. President, I rise in strong support of the Commerce, State, Justice Appropriations measure. As a member of the Appropriations Committee, I can speak to the importance of this legislation and I commend Senator GREGG and Senator HOLLINGS for putting this bipartisan product together.

I could speak to many important provisions in this bill for my constituents. From fisheries to the cops on the street to export assistance, this bill is important to Washington state. But there is one provision in the bill that I wish to give special attention to today. And that's the language to repeal Section 110 of the 1996 Illegal Immigration Act.

The repeal of Section 110 is one of my highest priorities for the year. As a member of the Appropriations Committee, I do strongly support including the repeal in the Commerce, State, Justice Appropriations legislation.

Section 110 requires the Immigration and Naturalization Service to develop an automated entry and exit system for the purpose of documenting the entry and departure of "every alien" entering and leaving the United States. It was not until after Section 110 became law that Congress became aware of the full impact of this new language.

As currently written, Section 110 will have disastrous consequences for U.S. border communities whose economies are dependent on border travel, trade and tourism. For example, more than $1 billion dollars in economic activity is generated each day by legal crossings between the U.S. and Canada. More than 116 million people legally crossed the border from Canada in 1996. This travel and economic activity will be discouraged to the detriment of U.S. interests if we impose new restrictions and create additional bureaucratic delays along our shared borders.

Section 110 will have dire consequences for my entire state and particularly for the residents of Northwest Washington in Whatcom County. In my state, Section 110 will create an invisible barrier between neighbors, families and coworkers who happen to live on different sides of the border. More than $250 million dollars of annual economic activity in Washington state will be threatened. Border infrastructure which is already inadequate and overwhelmed at certain times of the year will be further burdened with new documentation requirements and traffic congestion certain to anger both American citizens and Canadian nationals. It is estimated that Section 110 will almost immediately create a 12 hour backup at the border in Blaine, Washington.

Section 110 is a ticking time bomb. It's really that simple. The INS does not have the technology, facilities or trained personnel to implement this

language. The real explosive issue here is the cost to implement Section 110. The INS is silent on this issue. That's because it will cost billions of dollars to implement the Section 110 time bomb. Let's be very clear on this point, without changes this provision will cost billions of dollars not anticipated by either the Congress or the American people.

Many of my constituents in Whatcom County will view the repeal of Section 110 as the most significant action taken by the Congress this year. Section 110 is the classic square peg solution for a round hole problem. That's why I've been fighting for more than a year to scrap the disastrous language.

Last year, I introduced the first Senate bill on this issue. My bill, S. 1205, the U.S.-Canada Economic Friendship Preservation Act of 1997 seeks to exempt Canadians from Section 110. The effort to fix the Section 110 problem has grown tremendously since the introduction of my bill. Communities across Washington state and virtually the entire Northern Border are working to preserve our close ties with our Canadian neighbors. Governors from Washington state, Michigan, Texas, Arizona and others are supporting the effort. Editorials endorsing the repeal of Section 110 have been written all across the country including The Bellingham Herald, The Seattle Post Intelligencer, The Los Angeles Times, The Washington Post, and The San Diego Union Tribune have all criticized Section 110. Numerous Chambers of Commerce and other business and community groups from all parts of the country are supporting the repeal Section 110 effort.

Various legislative efforts have garnered bipartisan and broad support. I am also an original cosponsor of Senator ABRAHAM's legislation addressing Section 110 and I compliment him for his leadership and advocacy on this issue. Senator ABRAHAM has been a champion in this effort; holding hearings along the border and in Washington, D.C. in his capacity as Chairman of the Immigration Subcommittee. I continue to believe the Senate in addition to passing the language in this bill should pass Senator ABRAHAM's stand alone bill on Section 110.

I commend my colleagues at the Appropriations Committee for taking this action to repeal Section 110. And I urge my colleagues to give this language strong and bipartisan support.

NOAA WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I rise today to update the Senate on my efforts to enhance statewide emergency warning systems in South Dakota. A person only has to open up a newspaper or watch the evening news to learn of the latest plight afflicting some region of the country. In recent years, our nation has been continuously ravaged by natural disasters, ranging from mudslides in California, massive flooding in the Midwest, as well as the annual hurricane and tornado seasons. These disasters have resulted in fatalities, enormous property damage, and has caused lingering disruptions of entire communities. This has never been more evident then this year, as our nation continues to feel the effects of the weather anomaly known as El Nino. Since August 1992, the National Oceanic and Atmospheric Administration (NOAA) has calculated that twenty-one weather-related disasters caused a staggering $90 billion in damages and resulted in over 900 fatalities.

South Dakota has by no means escaped Mother Nature's destructive path. Last year, South Dakota was plagued by severe weather conditions, beginning with record snowfalls in January and February, and the worst flooding in the state's history in April and May. Many residents were displaced from their homes, and the final cost for clean-up and assistance total in the millions of dollars. This year has been no different. Heavy rains have once again flooded homes and farmland in the northeast part of the state.

Recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that additional efforts need to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

During consideration of the FY 1999 Commerce, Justice, State, and Judiciary Appropriations bill, I have worked with Senator GREGG and Senator HOLLINGS in examining all available options to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95 percent of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I look forward to working with Senator GREGG, Senator HOLLINGS and the conferees to locate funding for additional NOAA Weather Radio transmitters for South Dakota, and I appreciate their willingness to work with me on this critically important issue.

Mr. WELLSTONE. Mr. President, I rise to discuss a provision contained in the Commerce/Justice/State Appropriations bill: "Grants to Combat Violent Crime Against Women on Campuses," which provide $10 million a year to the Department of Justice for dissemination to colleges. I want to thank Senator GREGG, the Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, for working with me to ensure that this provision becomes law.

In the 1980s, several high profile violent crimes on campuses raised concern about campus crime and security, resulting in the Student Right-to-Know and Campus Security Act (C.S.A.) in 1990. Though overall crime rates are declining, sexual assaults throughout the United States, including on college

campuses, are on the rise. Studies tell us:

Twenty percent of college-aged women will be victims of sexual assault at some point during their college careers.

According to a 1995 study, 82 percent of rapes or sexual assaults in 1992–93 involved a person the victim knew.

Rape remains the most under reported violent crime in America, with approximately 1 in 6 rapes reported to police.

I am very concerned about sexual assault on college campuses. A 1991 survey of more than 6,000 college students found that 42 percent of women students reported some form of sexual assault, including forcible sexual contact, attempted rape, and completed rape. This is simply unacceptable and we must do something to turn this around.

We have already taken an important step in addressing violence on campuses. Already included in the Higher Education Act are efforts to strengthen reporting so that we can get more accurate statistics and a national baseline study has been commissioned to look at the policies and procedures regarding sexual assault, and how effective they are.

That's a great start, but it's not enough. It's not enough to simply get better statistics. It's not enough to look at how sexual assaults are dealt with on campuses. We have to go further. We have to combat sexual assault on campuses. We have to end the violence. Even one victim of sexual assault is too many.

A critical component to addressing violence against women on campus is good collaboration among those who work with victims of sexual assault—campus police, local law enforcement, campus administrators, and victim services. We need to improve the coordinated response to violence on campuses. We need consistent enforcement and implementation of policies regarding sexual assault. We need enhanced communication between the campus and local community.

And in turn, this increased communication will result in more accurate statistics. According to a GAO report released last March, one of the reasons we don't have good statistics is that campuses have had trouble deciding how to include crimes reported to campus officials who are not campus police. It's not unusual for crimes on campus to be reported to local police and not reported in campus crime reports. Improving collaboration within and between campus and off-campus agencies will improve the statistics—and therefore give us a more realistic picture of violence on campuses. It will also improve services and care for victims.

The grant program we've created—Grants to Combat Violent Crime Against Women on Campuses—would make $10 million a year available to college campuses so that campus personnel and student organizations could work with campus administrators and police. The aim is to improve security and investigation methods to combat violence against women on campus and to improve victim services. These efforts may include partnerships with local criminal justice folks and community victim services organizations. Collaborating with community resources is especially critical when campuses have minimal victim support services and students are isolated from community support systems.

Some say, "Why do this federally? Shouldn't schools do this themselves?" But why should we be surprised that schools have yet to properly initiate these collaborations when communities haven't even started. We need to hold the line on violence everywhere, in schools and in communities. And the only way to overcome violence involves setting up collaborative programs, and that takes funds. That's what the federal government does when it is functioning best—get the ball rolling.

Campus safety is an educational access issue. Violence on campus is a huge barrier to education for many students who are in fear of being attacked because they feel unprotected on their own campuses. Without adequate prevention and protection services, many students—women in particular—continue to become victims of attacks, while others remain afraid to take night classes or to study late at the library. And victims of sexual assault may choose to leave school because they feel unprotected.

How are college women supposed to focus on their educations when one out of five college women will be a victim of sexual assault? And if it's not themselves personally, it will surely be their roommates, their classmates, their sorority sisters, or their friends. College is the time when many young people begin to break away from the protection of their families, a time of learning—both in the classroom and out—a time of freedom. But for many young women, it's also a time of trauma, a time of victimization, a time of violence. It's time to make campuses safe.

During the Higher Education Act Markup in the Senate, I reached a public agreement with Senator GREGG to work together to develop a Campus Safety Collaborative Grant Program. On May 6th, Senator GREGG agreed to the language I proposed, creating a $10 million grant program administered by the Department of Justice for collaborative grants to colleges in order to combat violence on campus. Consequently, the Senate Working Group—Senator JEFFORDS, KENNEDY, COATS, and DODD—adopted the language into the Manager's Substitute of the Higher Education Act. And I am very pleased that Senator GREGG has inserted funding for this program into the Commerce/State/Justice Appropriations Bill.

The Wellstone/Gregg Collaborative Grant Program states: "enough is enough. It's time to end the violence." I thank Senator GREGG for all of his efforts, and I urge my colleagues to support this important provision.

IOWA COMMUNICATIONS NETWORK (ICN)

Mr. HARKIN. Mr. President, I understand that the intent of Section 254(h) of the Communications Act of 1934, commonly referred to as the Schools, Libraries and Rural Health Care Providers program or the "E-Rate" program, is to provide schools, libraries and health rural care providers with access to advanced telecommunications services. I believe that the Iowa Communications Network (ICN), a state run and owned communications network, as well as similarly situated entities, should be able to fully participate in the E-rate program. If the ICN is denied that opportunity by the Federal Communications Commission (FCC), Iowa schools will be unfairly and improperly placed at a disadvantage.

The FCC has said that an entity must be a common carrier to be a telecommunications carrier, as that term is used in Section 254(h) of the Communications Act of 1934, and to receive payments from the universal service fund for providing telecommunications service to schools, libraries and rural health care providers. The Universal Service Administrative Company is treating the ICN as a carrier for purposes of paying into the universal service fund, and ICN is, in fact, paying into the fund. The Iowa Utilities board, the local expert on this issue, has stated that the ICN functions as a common carrier under Iowa law, since the ICN serves all of its customers on equal terms and conditions. In light of these facts, does the center believe the ICN and other systems like it should be fully eligible to receive the benefits of the fund, including those available to telecommunications carriers?

Mr. MCCAIN. Given the statement of facts that the Senator has presented, it is my belief that it was clearly my intent and the intent of Congress that a State network organized and operated like the ICN is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934.

In addition to any action taken by the Federal Communications Commission, the Commerce Committee intends to further look into this issue. This program should treat all involved equally and not give any advantage to some while placing others at a disadvantage. Together, with the Ranking Member, we will do what is necessary

and appropriate to deal with this matter.

Mr. HOLLINGS. I agree with Senator MCCAIN, the Chairman of the Commerce Committee, and Senator HARKIN that a State network organized and operated like the Iowa Communications Network is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934. I will certainly work with Senator MCCAIN and others if this issue arises in the Commerce Committee.

Mr. HARKIN. I appreciate your attention to this important issue.

ITC REGIONAL OFFICE

Ms. SNOWE. Mr. President, as the Senator from New Hampshire knows, I recently urged the Federal Trade Commission to reconsider their decision to close the Boston Regional Office and move all area activity for consumer protection and antitrust matters to New York City. The Boston office has served the people of Maine—and the rest of New England—well for over 40 years and I am concerned that thee may be adverse consequences as the Boston office is uniquely situated in New England to focus on fraud and deception issues that target senior citizens, or for unsubstantiated advertising claims that affect consumers' pocketbooks.

The Boston office has been a leader in coordinating efforts to combat consumer fraud in the New England area, partnering with regional FBI and IRS officials in its efforts to detect fraud on the Internet. The office has also worked with Canadian officials on cross-border fraud. In addition, the office has been active in addressing false and unsubstantiated advertising claims that affect consumers' health and safety, for instance stopping a company from claiming that their calcium product prevented osteoporosis, or preventing misleading food safety claims for a food thawing tray, or stopping a company from selling water treatment devices that did not meet the claims made.

The Boston office has also worked with senior citizens to detect and avoid telemarketing fraud specifically targeted at them, and also spends a great deal of its time performing other consumer and business outreach and educational services, including educational outreach to the next generation of consumers—the schoolchildren throughout New England.

I hope that the FTC can be urged to first consider the findings of a GAO independent evaluation due out in September before they continue with their planned closure of the Boston Office in December.

Mr. GREGG. I understand your concern about the possible adverse effects the closure of the Boston Regional Office could have on the people of New England, and while we have not heard a groundswell of protest from the public for keeping the office open, the situation may well be that the office will not be missed until or if New Englanders can no longer get the response they expected when lodging consumer complaints. The GAO findings as to the effectiveness of the Boston office should certainly be considered by the FTC Commissioners as they plan their restructuring plan to maximize their resources to best serve the consumers of the U.S., and including the residents of New England. I thank the lady Senator from Maine for requesting the GAO Study so that the FTC can quantify the best use of their limited resources.

Ms. SNOWE. I thank the Senator from new Hampshire for all his assistance and fine work as Chairman of the Commerce, Justice, State and Judiciary Appropriations Subcommittee, and for his effectiveness in bringing about the passage of this legislation today.

PFIESTERIA

Mr. FAIRCLOTH. I wish to enter into a colloquy with Senator GREGG in order to emphasize the funding needs of North Carolina in regards to Pfiesteria and the expertise available to research this toxic microbe at N.C. State university.

Pfiesteria is a toxic microbe that kills fish and causes widespread fish disease. Its toxins are known to affect many species of commercially important finfish and shellfish.

Pfiesteria is also highly toxic to people—it causes subtle, but serious, impacts on human health. People who are exposed to toxic outbreaks of Pfiesteria, where fish are dead or filled with open bleeding sores from this creature's toxins, can be seriously hurt as well.

Medical studies have shown that fishermen and other people whom have been exposed to these toxic outbreaks have suffered profound memory loss and learning disabilities for months afterward. Laboratory workers exposed to airborne toxins from Pfiesteria have had other health impacts that have lingered for years, suggesting the potential for some long-term, lingering health problems for people in estuaries where toxic outbreaks occur.

Pfiesteria's toxins are extremely potent—People are hurt from these toxins if they have contact with the water, or even if they breathe the air over places where Pfiesteria is attacking fish. These toxins affect the human nervous system. They also strip the skin from fish, make deep bleeding sores, and suppress the immune system. Small amounts of the toxins can make fish very sick in three-five seconds and kill them in five minutes.

Pfiesteria was first discovered in 1991, as a major cause of fish kills in the Albemarle—Pamlico Estuary of North Carolina. This estuary is of great importance to the commercial fishing industry of this country. It is the second largest estuary on the U.S. mainland, and it supplies half of the total area used by fish from Maine to Florida as nursery ground. Recently, Pfiesteria also affected small numbers of fish in the largest estuary on the U.S. mainland, the Chesapeake Bay.

Pfiesteria, and its close relatives, have been confirmed in the mid-Atlantic and southeastern U.S. Toxic Pfiesteria and its close relatives are believed to be widely distributed in many warm temperate estuaries and coastal waters of the country and the world.

Pfiesteria thrives in polluted waters that are over-enriched in nutrients from sewage and other wastes. With exponential human population growth a reality for many coastal areas of our country, more of our people are living and working near waters where these toxic outbreaks occur.

Pfiesteria has affected the largest and second largest estuaries on the U.S. mainland with major economic impacts. Its toxic outbreaks have caused millions of dollars of damage to seafood, tourism, and other industries in coastal areas. Thus, Pfiesteria has become a high profile national issue for human health and the coastal economy. Its toxic outbreaks are expected to increase in coming years, associated with sewage and other wastes.

Pfiesteria can have potentially devastating impacts on our fish resources. Beyond easily detected fish kills, Pfiesteria affects fish at the population level by severely impairing their reproduction, the survival of their eggs and young, and their ability to fight disease.

Pfiesteria's impacts on human health are also serious: Imagine what it would be like to appear normal, but to have no idea of where you are, to be unable to put words into sentences, or to understand English. You have lucid moments in which you realize that something is terribly wrong; then you slide back down. As you begin to recover, you must take reading lessons to be able to read again. Imagine life style changes—that even after you are able to test normally for learning and memory, you must compensate because you have lost the ability to process information as quickly as you could before the illness occurred, and you do not recover it. Imagine not being able to strenuously exercise because when you try, you develop severe bronchitis or pneumonia. Consider what it would be like to be a fairly young, energetic person who must be on antibiotics more than a third of the year, five years after being affected . . . what it would be like to watch as increasingly potent antibiotics do not help you recover from the most recent, nearly constant illness, and to fear the prospect of reaching the point at which the most potent antibiotics no longer can help.

This description characterizes the lives of several laboratory workers five to seven years following Pfiesteria toxin exposure.

In North Carolina, Pfiesteria has poisoned and killed millions of fish nearly every year from 1991, when scientists first discovered it, to the present. Last year, its toxic outbreaks also killed about 30,000 fish in Chesapeake waters.

Thus, the Albemarle-Pamlico, which is of such great importance to fisheries along the Atlantic Seaboard, has been hit hardest by Pfiesteria. North Carolina also has the world's foremost scientific expertise on Pfiesteria.

Dr. JoAnn M. Burkholder is a Professor of Aquatic Botany and Marine Sciences at North Carolina State University, and a Pew Fellow. She obtained a Bachelor of Science degree in zoology from Iowa State University, a Master of Science in aquatic botany from the University of Rhode Island, and a Ph.D. in botanical limnology from Michigan State University. Dr. Burkholder's research over the past 25 years has emphasized the nutritional ecology of algae, dinoflagellates, and seagrasses, especially the effects of cultural eutrophication on algal blooms and seagrass disappearance. Since codiscovering the toxic dinoflagellate, Pfiesteria piscidia, in 1991, she has worked to characterize its complex life cycle and behavior, its stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially important finfish and shellfish in estuaries and aquaculture facilities.

Howard Glasgow is the Director of North Carolina State University Acquatic Botany Laboratories. He obtained a Bachelor of Science degree in Chemistry and a Bachelor of Arts degree in Marine Biology from the University of North Carolina at Wilmington. Mr. Glasgow is now finishing a Ph.D. degree in Marine Sciences from North Carolina State University. Before joining the Aquatic Botany Program at NCSU in 1990 Mr. Glasgow was President and CEO of Glasgow Electronics (North Carolina's 2nd largest electronics servicing and engineering organization) were in 1989 he was nominated Businessman of the year and appointed as a member of Who's Who In U.S. Executives. His scientific interests compliment Dr. Burkholder's, and together they have characterize Pfiesteria's complex life cycle and behavior. Including research describing Pfiesteria's responses to stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially valuable finfish and shellfish in estuaries and aquaculture facilities.

The researchers who discovered it as a major cause of fish kills in estuaries have been working with Pfiesteria at North Carolina State University for the past decade. Nearly all of the science articles that have been published on Pfiesteria—that is, nearly all of the information available about it—has been contributed by that laboratory.

Armed with this formidable expertise, these researchers are poised to make the most rapid and significant progress to understand and control Pfiesteria, so that our people, and our fisheries, do not continue to be seriously hurt by it.

Despite the demonstrated expertise of this laboratory on the Pfiesteria issue, very little federal funding support has reached it.

These researchers are well-known for their leadership role in providing information about Pfiesteria that is critically needed by coastal resource managers, policy makers, and fishermen and many other folk who utilize our estuaries. Their research laboratory is located in the heart of the area where toxic Pfiesteria outbreaks have been most severe.

The funding would also make it possible for the most experienced researchers to determine the environmental conditions that promote toxic activity by Pfiesteria, so that its toxic production can be significantly reduced, and so that we can develop effective management strategies to discourage Pfiesteria's growth.

This funding would make it possible to achieve rapid progress in identifying the suite of toxins that produced by Pfiesteria, so that improved tools can be developed to diagnose Pfiesteria toxin exposure in people, to ensure that seafood is safe for human consumption, and to develop medicines to reduce the impacts of Pfiesteria's toxins in people and help them recover.

Mr. GREGG. I appreciate you bringing this funding issue to my attention, and I will work with you on this matter. I agree with you that scientific talent available at N.C. State University should be funded.

Mr. HOLLINGS. I appreciate the dedication of researchers at the N.C. State University. Howevr, this dedication is not limited to that institution, and we also must recognize the expertise and important contribution of government and academic scientists throughout the Eastern United States in dealing with this problem. For example, researchers at the National Ocean Service laboratory at Charleston are playing a critical role in developing methods for detecting Pfiesteria toxins. The reduction of toxin outbreaks must rely on bringing our combined federal, state and academic resources to bear on the problem in a cooperative and cost effective manner.

JEFFERSON PARISH COMMUNICATIONS SYSTEM

Mr. BREAUX. Mr. President, I would like to engage in a colloquy with Senator GREGG, the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, Senator HOLLINGS, the Subcommittee's distinguished Ranking Member, and Senator LANDRIEU, my distinguished colleague from Louisiana, concerning an important public safety matter in Jefferson Parish, Louisiana.

As my colleagues know, the Jefferson Parish Sheriff's Office has gained attention as one of our nation's most innovative and accomplished law enforcement agencies. Unfortunately, the Sheriff's Office's has been stymied in the past by a grossly inadequate and outdated conventional 450 MHz UHF radio system that has threatened public safety. It simply cannot provide the secure and varied communications capabilities needed by the Jefferson Parish Sheriff's Office in order for it to communicate with various state and federal law enforcement agencies.

To meet its operational needs, the Sheriff's Department has pursued the purchase of a new 800 MHz communications system. This new system will enable the Sheriff's Office to maintain a high and secure level of communication with district personnel and others. Through better communication, each officer can patrol his or her reporting areas more effectively. The new system will also enable the Sheriff's Office to successfully communicate with residents and other public safety officials during emergency situations, such as natural disasters, which require coordination of state and federal efforts.

I would like to thank the Subcommittee for recognizing the importance of this project and for providing partial funding for this initiative in last year's appropriations bill. Unfortunately, Congress only provided half of what the Sheriff's Office needs to complete the new communications system. Now is the time for Congress to finish its commitment to fund this project.

Ms. LANDRIEU. Mr. President, I would like to join my colleague in thanking the Subcommittee for its action last year in providing funding for this vital initiative. I fully agree with my distinguished colleague that the completion of the new communications system for the Jefferson Parish Sheriff's Office is a high priority project that deserves funding under the FY 1999 COPS Technology Grant Program. The Sheriff's Department has committed to at least a 50-50 cost share with the federal government for this initiative which can serve as a national model. Further, the new communications system will help meet a clear public safety need by supporting interoperability and thus enhancing communication between the Jefferson Parish Sheriff's Department and a number of other local and national law enforcement and public safety agencies throughout the region. This interoperability will enhance the Sheriff's Department's effectiveness in combating

crime and responding to area-wide public safety emergencies.

I would also like to add that funding is needed in order for the Sheriff's Office to meet FCC requirements and the procurement implementation schedule for the new system.

Mr. BREAUX. Given the importance of this project, I hope that the conferees will agree to provide funding for completion of the enhanced radio system for the Jefferson Parish Sheriff's Department.

Ms. LANDRIEU. I join my colleague from Louisiana in urging my distinguished colleagues to work in conference to finish the federal commitment we have made to this much-needed system.

Mr. GREGG. I would like to thank the Senators from Louisiana for understanding that the Subcommittee was unable to accommodate the entire request for funding in last year's appropriations bill. Funding for the completion of the new communications system for the Jefferson Parish Sheriff's Office in Jefferson Parish is a project worthy of attention in conference this year.

Mr. HOLLINGS. The Senators from Louisiana have highlighted an important issue. I agree with the distinguished Chairman that the completion of the communications system for the Jefferson Parish Sheriff's Office is a project that deserves consideration and I will give this matter my attention in conference.

Mr. BREAUX. The support from the distinguished Chairman and Ranking Member of the Subcommittee in this matter is greatly appreciated.

DATA SURVEY OF NARRAGANSETT BAY

Mr. CHAFEE. Mr. President, I want to engage in a colloquy with the chairman of the subcommittee, Senator GREGG.

On page 93 of the report accompanying the FY99 Commerce, Justice, State and the Judiciary Appropriations Act (S. Rept. 105–235) is a provision appropriating $1 million for a data survey of Narragansett Bay, to be conducted in conjunction with the Rhode Island Coastal Resources Management Council (CRMC). I would like to outline to the chairman my understanding of the purpose of these funds, and request his concurrence.

The $1 million appropriated for this project is to be used by CRMC for a Geographic Information System (GIS) software program to develop digital data on Narragansett Bay's resource conditions, availability and use. Advanced sonar technology would be employed to assess the Bay's bottom sediment types, habitat and use conflicts. A previous EPA study, the Narragansett Bay Critical Resource mapping project, was unable to collect data on bottom habitat, due to the limitations of research methods used at the time.

The data collected by this project would provide CRMC with information that, combined with input from other sources, would be helpful in determining appropriate sites for aquaculture leases, a function currently hindered by inadequate data and ongoing disputes over use. The data would also be useful in making several other decisions related to marine management issues. In addition, the project is intended to provide for studies relating to questions regarding environmentally sound and economically sustainable forms of aquaculture by the University of Rhode Island's Partnership for the Coastal Environment.

It is intended that the data collected and developed under this project not only be utilized by CRMC, but will also be made available to other Federal and State agencies as well as private fishery and conservation groups. I would like to briefly describe some of the entities that could potentially benefit from this data and ought to have access to it.

First, the National Marine Fisheries Service (NMFS) and the Rhode Island Department of Environmental Management (DEM) could use the data to identify existing essential fish habitats (EFH) not only in Narragansett Bay, but also in nearby Rhode Island and Block Island sounds. In addition, the Rhode Island Economic Development Corporation (RIEDC) ought to have access to the data in order to help establish suitable shipping lanes for larger vessels serving the cargo port at Quonset Point. Further, the data could be useful to NOAA's National Estuary Research Reserve NERR in selecting eelgrass restoration sites, identifying areas impacted by fishing gear, and areas suitable for habitat restoration. Finally, the data should be accessible to interested private fishery and conservation groups, such as the Rhode Island Shellfishermen's Association, the Ocean State Fisherman's Association and Save the Bay.

Let me also point out what this project is not intended for. This initiative is not aimed at giving preference to one group or interest over another in the use of, or issuance of permits in, Narragansett Bay and other marine resources in Rhode Island. Instead, it is simply intended to provide State and Federal authorities with the best possible information to assist them in making the most responsible public policy decisions not just on aquaculture permitting, but also on a variety of matters involving our precious natural resources.

I would ask Chairman GREGG if he concurs that the description I have provided on this funding is the Committee's intent?

Mr. GREGG. Yes, that is correct.

PATHOGEN RESEARCH RELATED TO BALLAST WATER

Mr. KOHL. I would like to thank the Senator from New Hampshire, the Chairman of the Subcommittee on Commerce, Justice, and State Appropriations, for his work on this bill. In particular, I appreciate his efforts to maintain funding for the Sea Grant College Program, which facilitates so much valuable research in the Great Lakes and other coastal areas of this country.

As this process moves forward, it is my hope that the conferees working on this bill will ultimately support and reiterate the language included in the House Committee report related to pathogen research and the Sea Grant College Program. Specifically, this language encourages the agency "to conduct research related to the public health risks posed by pathogens released in ballast water discharges in ports around the country."

While we know that pathogens from other regions of the world are sometimes present in the ballast tanks of ships that enter our ports, we have very little information about the public health risks posed by those pathogens. It is important that we improve our state of knowledge in this regard. The Sea Grant College Program and its network of about 300 universities are appropriately positioned to undertake this research. They are in this position due to their ongoing research on aquatic nuisance species and ballast water, as well as their affiliation with human health experts at their network universities.

Would the Senator from New Hampshire agree that this research on public health risks posed by pathogens in ballast water is important, and efforts should be made through the Sea Grant College Program to undertake such human health risk studies?

Mr. GREGG. I would concur with the Senator from Wisconsin that it is important to improve the state of understanding about the potential human health risks of pathogens that enter U.S. waters via ballast water, and that the Sea Grant College Program is an appropriate agency to conduct and facilitate such research.

Mr. KOHL. I appreciate the Senator's comments, and understanding of these concerns. Will the Senator be willing to support the inclusion of language in the conference report with regard to such research?

Mr. GREGG. While I can make no promises with regard to the final outcome of the conference, I will work with the Senator to address these concerns in the conference report.

SAFE SCHOOLS INITIATIVE

Mr. BIDEN. Mr. President, I would ask to engage the Senator from New Hampshire, Mr. GREGG, in a brief colloquy regarding a portion of the report which accompanies the bill, calling on the COPS office to direct $175 million to the Safe Schools Initiative, for the hiring of additional police officers to improve the safety of our school children. I strongly support the Committee's effort, lead by Chairman GREGG

and ranking member HOLLINGS, to meet this highly important duty. I just wanted to get a clarification about the Committee's intent—is it the Committee's intent that D.A.R.E. police officers would be eligible to be funded under the Safe Schools Initiative?

Mr. GREGG. I appreciate the Senator's concern on this subject. The Committee believes that D.A.R.E. police officers would clearly quality under the Safe Schools Initiative. However, we are not yet ready to increase the D.A.R.E program above the FY 1998 level which has already been approved by the Office of Justice Programs. Of course, such decisions would be made at the local level—they decide the types of community police officers which would best accomplish the goals of the Safe Schools Initiative.

Mr. BIDEN. I thank the Senator for his interest in this matter and for his clarification of the Committee report.

WESTERN SLOPE DRUG ENFORCEMENT

Mr. CAMPBELL. Mr. President. I seek recognition to raise an important issue with the manager of this bill, Senator GREGG.

One area of growing concern in my home state of Colorado is the production, distribution and use of methamphetamines. To help law enforcement address this problem, I pushed for designation and funding of the Rocky Mountain HIDTA which is operating in many regions of the state, and secured additional funding in the Treasury subcommittee for a methamphetamine initiative through the Office of National Drug Control Policy. I also have supported budget increases for the Drug Enforcement Administration, but believe that agency can do much more, especially to help Western Colorado.

The Western Slope of Colorado is becoming a major drug transit point because of its close proximity to I–70, its easy access to trains, buses and planes, and the large geographic areas which law enforcement officers have to patrol. The scope of the methamphetamine problem in this area recently was underscored by the Grand Junction Chief of Police, Gary Konzak. Chief Konzak informed me that "the quality of life of this city and the safety of its citizens are in peril if significant and organized law enforcement resources are not deployed soon to combat this menace."

Based on his almost 30 years of law enforcement in Chicago before coming to Colorado, Chief Konzak believes neighborhoods and communities in Western Colorado are vulnerable to degradation similar to what he witnessed when crack cocaine arrived in the Chicago area in the early and mid 1980s.

Mr. President, in Colorado the DEA operates a regional office in Denver and recently established a field office in Glenwood Springs. However, I believe the DEA can do much more to assist police chiefs and sheriffs in Mesa County, Montrose County and other counties on the Western Slope.

The bill we are considering today includes a significant increase in the DEA's budget for the coming fiscal year. The bill also includes $24.5 million and 100 agents specifically for the Methamphetamine Initiative to target and investigate methamphetamine trafficking, production and abuse.

Chief Konzak and other law enforcement officials throughout the Western Slope believe there is an urgent need for a DEA presence, through a field office or permanently assigned agents. I strongly support their request for assistance from the DEA and ask the Chairman for his support.

Mr. GREGG. I thank the senior Senator from Colorado for raising this important issue and for his work on the Commerce, Justice, State subcommittee to make DEA funding a main priority. I can appreciate his concern for the tragic ways methamphetamines can ravage communities, and commit to working with him in urging the DEA to establish a field office on the Western Slope of Colorado.

Mr. CAMPBELL. I thank the chairman for his support and look forward to working with him to address the methamphetamine problem on Colorado's Western Slope.

NEW JERSEY STATE POLICE

Mr. LAUTENBERG. Mr. President, I rise to confirm my understanding of a provision that will be included in the manager's amendment to the Commerce, Justice and State appropriation bill. I had proposed an amendment that would provide $1 million to equip New Jersey State Police vehicles with video cameras. It is my understanding, and I want to confirm this with Mr. GREGG, the distinguished Floor Manager of this legislation, that these funds will be made available by reallocating $1 million to the COPS Program. That $1 million would then be directed to the New Jersey State Police for video cameras in its vehicles, in the same manner that COPS Technology Program funds are directed to various programs on page 61 of the Committee Report to this legislation, e.g., $935,000 for the Missoula County, MT, mobile data terminals. Is my understanding correct?

Mr. GREGG. Yes.

Mr. LAUTENBERG. Is it also the understanding of the Senator that he will support the $1 million for the New Jersey State Police in a Conference Committee with the House?

Mr. GREGG. Yes.

Mr. LAUTENBERG. I would like to thank the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State for his help with this matter. I appreciate his cooperation and I commend him for all of his hard work on this legislation. I know that it is difficult to accommodate the various requests from colleagues, and I think he and his excellent staff do it with grace and understanding. I also want to thank Senator HOLLINGS, the Ranking Member on the Subcommittee, it is always a pleasure to work with him and his fine staff.

The video cameras that will be funded under this provision will help the police document evidence which will assist prosecutors and also protect the innocent. With these cameras in place, people who are pulled over will think twice before acting violently toward the police. Additionally, the cameras will ensure that the troopers are following proper procedures when they make traffic stops.

In my home State of New Jersey, we must find ways to help resolve disputes and ease tensions between the police and the public they are sworn to protect. These cameras are an important step forward.

Again, I thank Senator GREGG and Senator HOLLINGS for their help in securing this critical funding.

ORGANIZATION FOR INTERNATIONAL ECONOMIC AND COOPERATION

Mr. DOMENICI. Mr. President, I rise today to address one of the international organizations funded in the Commerce, Justice, State, and the Judiciary Appropriations bill that is currently pending. I speak of the Organization for International Economic and Cooperation, or OECD, as it is known.

Mr. President, we live in an era where the pubic rightly demands both less government and higher quality services. This is an era where government downsizing and reform are expected of not just federal, state, and local governments, but also to international organizations.

One organization that has understood that less is better when it comes to government is OECD. The OECD was founded in 1961 as a successor to the Organization for European Economic Cooperation, which was formed to administer the Marshall Plan. As the situation in Europe has changed, so has the work of the OECD evolved. Its purpose today is to contribute to the world economy through economic cooperation among its member nations and beyond.

The OECD works on issues such as regulatory reform, electronic commerce and tax reform. With its first-rate studies and current information, OECD helps the United States and its other member nations to stay ahead of the curve in the fast-changing global economy. Its work offers policy makers important insight on what the United States can do to benefit from globalization and general economic liberalization.

At the same time, the OECD has understood that it, too, has to change. On its own initiative, the OECD has undertaken a significant process of reform,

committing to cut its overall spending by ten percent. It is well on its way toward achieving this goal.

The distinguished Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee has put an emphasis on getting all international organizations to cut administrative costs. The pending bill reflects reductions in funding to those organizations that are above 15 percent in total administrative costs. Based on the State Department data available to the Subcommittee—a 1997 report which includes data only through 1995—the Subcommittee has reduced funding for the OECD. The OECD has indicated to me that its administrative costs are now only about 12.4 percent of its budget.

I urge the Department of State to provide the Subcommittee with more recent data so that those international organizations that have reduced their overall administrative costs can be appropriately reviewed for FY 1999 funding. For organizations that have pursued reform, such as the OECD, I hope the Subcommittee will reconsider the Administration's budget request for inclusion in the final bill.

WATERLINE EXTENSION PROJECT

Mr. CLELAND. Mr. President, I would first like to thank my distinguished colleagues, the Chairman Senator GREGG and Ranking Member Senator HOLLINGS, for their leadership and superb management of this bill. I would like to take a moment to express my support for a matter of great importance to me, specifically obtaining funding for a Waterline Extension Project in Georgia. The project would involve providing $1,000,000 in Economic Development Administration (EDA) Public Works (Title I) funds for construction of an extended 16-inch water line (16,000 L.F.) along Macon Road (U.S. Highway 80) from Muscogee County into Talbot County. I understand that a proposal for this project was submitted to the EDA, but the application was denied. Apparently, the application was rejected because the project did not identify any, or a significant number of, near term new jobs. However, I have been assured that, although one industry alone would not fulfill the new job requirement, the waterline would allow several new industries to locate in the area which will more than meet the new job requirement. In fact, there have been commitments in writing from three businesses of their intent to locate in the newly developed industrial site. Talbot County is one of the most economically depressed counties in Georgia. In fact, in 1994, Talbot County had approximately 25% of its population living below the poverty line, ranking near the bottom of the state. If funded, the waterline would provide the vital infrastructure needed to serve potential industrial sites located in Talbot County and bring with it much needed opportunities for employment in well paying jobs. Senator HOLLINGS, I understand that Committee policy prohibits earmarking EDA funding for individual projects. Is that accurate?

Mr. HOLLINGS. My colleague is correct.

Mr. CLELAND. I thank the Senator. I understand that although projects are not earmarked, language is provided in the bill about projects intended to provide favorable recommendations to the EDA, if the project meets EDA criteria. Is my understanding correct?

Mr. GREGG. The Senator from Georgia is correct.

Mr. CLELAND. I thank the Senator. I understand that the EDA has stated a willingness to meet with County and City officials to review and reconsider the proposal at any time. Given the importance of this project and the apparent discrepancy between the information provided by local officials and the information cited by EDA in rejecting the proposal, I urge that the EDA give prompt consideration of any such request for a meeting. Further, assuming that the job-creating potential of the waterline Extension Project can be verified, I ask the distinguished Chairman and Ranking Member if they would agree that this is the kind of project Congress intended for EDA to give favorable consideration to in its public works construction program?

Mr. HOLLINGS. The Senator is correct.

Mr. GREGG. With the information provided, I believe the Senator's understanding is correct.

Mr. CLELAND. I, along with residents of Talbot and Muscogee Counties, thank my colleagues for their understanding and support and believe that this project would provide a critical economic boost to this region.

SWORDFISH CONSERVATION INITIATIVE

Mr. GREGG. I wish to enter into a colloquy with Senator FAIRCLOTH in order to address his concerns about the conservation of swordfish.

The National Marine Fisheries Service is in the process of implementing several management measures to ensure sustainable use of the Atlantic swordfish resource. The rampant importation of undersized Atlantic swordfish harvested by foreign fishing vessels is one of the most serious problems facing domestic and international management of this highly migratory species. The Congress recognizes the significance of this effort and, through the leadership of Senator FAIRCLOTH, this appropriations subcommittee provided $500,000 in this fiscal year for NMFS to fully address this specific concern.

The Committee intends that NMFS will utilize this particular appropriation to implement changes in our current system in order to prevent importation of Atlantic swordfish not harvested in a manner that is consistent with recommendations under the International Convention for the Conservation of Atlantic Tunas (ICCAT).

I ask my colleague from North Carolina to elaborate upon the intent of the Committee in its initiative to address Atlantic swordfish importation problems.

Mr. FAIRCLOTH. The United States has taken a firm conservation position with respect to ICCAT management recommendations. Our domestic fishermen comply with a tightly managed quota designed to rebuild this stock through international cooperation. Through efforts of the NMFS and our fishermen, we harvest only the annual amount specified for the American fishery, and we abide by the minimum swordfish size requirement of 33 lbs. Indeed, despite our harvest of less than five percent of the total Atlantic swordfish catch, the United States is working within the system to manage this resource in a sustainable fashion.

Unfortunately, however, not all countries are playing by the rules. Several foreign nations are allowing the harvest of swordfish smaller than the American minimum legal size. Further, this "black market" swordfish often time find its way into our restaurants and fish markets, and we are effectively undermining our resource rebuilding programs and our ability to compete in the marketplace by allowing this situation to continue.

I concur with my colleague from New Hampshire that it is time for us to reign in this illegal activity—to enforce our fishery regulations equally across the board—and protect our domestic fishermen who are operating just as we have asked them to. The intent of the Congress in the swordfish conservation initiative is to arm NMFS with the financial resources necessary to develop a program to restrict the importation of Atlantic swordfish that are below the United States minimum size. I understand NMFS is examining a number of possible management options, including dealer permits, country of origin documentation requirements, and the designation of restricted ports of entry for Atlantic swordfish to facilitate inspections.

I encourage them to continue in their deliberations, communicate fully with our fishermen, and implement a program to address our resource and equitability concerns.

OECD DEVELOPMENT CENTER

Mrs. HUTCHISON. Mr. President, the OECD Development Center works to promote market-opening reforms in developing nations and has provided valuable research and resources to policy makers and analysts in developed nations and developing countries alike. the OECD Development Center was established at the initiative of the United States in 1962, and we have played a leadership role in the Center

ever since. I believe it is important to note the OECD Development Center's contribution as a bridge between OECD nations and emerging economies around the world.

Mr. GREGG. I appreciate and understand the remarks of the Senator from Texas in support of the OECD Development Center and the important role it performs.

BROADCASTING ACTIVITIES

Mr. BIDEN. Mr. President, I would like to briefly discuss the funding levels for international broadcasting in this legislation. I am disappointed by the considerable reductions in the Senate bill in this account. We have important priorities in this account. Radio Free Asia, Radio Free Europe/Radio Liberty (RFE/RL), and the Voice of America are critical instruments of American foreign policy. For a relatively modest cost, these broadcasting agencies project American values and promote American ideals. RFE/RL was of critical importance during the Cold War in undermining the tight control on information imposed by the communist states in Eastern Europe and Eurasia. Although the Cold War is over, RFE/RL still have an important function in a region where independent media are not yet firmly established, and, in many countries, is barely adequate. I authored the legislation in 1994 which created Radio Free Asia—which broadcasts news about local events to China and the other dictatorships in the region—and I want to ensure that it has the necessary resources so that it can perform its function.

It is my understanding that Committee has assumed that the bill fully funds Radio Free Asia at the requested level of $19.4 million. Is that the understanding of the Chairman?

Mr. GREGG. That is correct.

Mr. BIDEN. I appreciate that clarification. I understand that the Chairman and Ranking Member have a very tight allocation this year, but I hope that they will do what they can to try to restore the funds that were reduced in the Committee mark for broadcasting activities.

Mr. GREGG. I will say to the Senator from Delaware that I will do my best, within the allocation, to provide additional resources to this account.

Mr. HOLLINGS. I share the view of the chairman that we will do what we can on this account.

Mr. BIDEN. Additionally, I would note that the Committee report makes reference to the fact that the statute authorizing Radio Free Asia provides for a sunset a year from now. That is true, but the Senator from New Hampshire should understand that, in my view, it is quite likely that Radio Free Asia will be reauthorized next year. I plan to introduce such legislation early in the next Congress, and I would expect that it would be included as part of next year's Foreign Relations Authorization Act.

Mr. GREGG. I am grateful for that information from the Senator from Delaware. I know that he is a strong advocate of Radio Free Asia as well as the other broadcasting services. I look forward to working with him on this issue as the bill goes to conference and in the coming years.

JOINT MARINE AQUACULTURE EDUCATION PROJECT

Ms. SNOWE. Mr. President, I would like to engage the Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee, Senator GREGG, in a colloquy.

Mr. GREGG. Mr. President, I would be pleased to join the Senator from Maine in a colloquy.

Ms. SNOWE. Mr. President, S. 2260 provides funding for the National Oceanic and Atmospheric Administration to support a joint marine aquaculture education project in Maine. The committee report lists the project sponsor in Maine as the Island Institute, but the actual sponsor is the Teel Cove Sea Farm. While Teel Cove is associated with the Island Institute, the two organizations are separate entities. In this case, Teel Cove is the chief sponsor of the project in Maine and should be listed as the recipient in the bill or report. I believe that this was the committee's intention. I would like to ask Senator GREGG if his understanding of this matter is consistent with mine, and also whether he would be willing to take appropriate action to ensure that a correction will be made and Teel Cove will be designated as the project sponsor in Maine.

Mr. GREGG. Mr. President, I agree with Senator SNOWE on this point. Teel Cove is the intended recipient and I will make sure that this matter is clarified before the conference on this legislation is completed.

Ms. SNOWE. Mr. President, I thank Senator GREGG for his statement and his agreement to address this matter. I would also like to ask Senator GREGG if my understanding is correct that the bill before us provides the Administration's full request for funding of the State of Maine's Atlantic salmon recovery plan.

Mr. GREGG. Mr. President, this bill does provide the Administration's requested level of funding for the Maine Atlantic salmon recovery plan.

Ms. SNOWE. Mr. President, I thank the subcommittee chairman, Senator GREGG, for his clarifications and assistance.

FISHING CAPACITY REDUCTION PROGRAM

Mr. WYDEN. I thank the Subcommittee Chairman for including $50,000 in the Committee Appropriations report for a potential loan to fund an innovative fishing capacity reduction program on the Pacific Coast. The program, if it receives the approval of fishermen on the West Coast, would be the first capacity reduction program to be ultimately funded by the fishing industry itself.

To comply with the requirements of section 504(b) of the Federal Credit Reform Act (2 U.S.C. 661c), an appropriation is required to cover the potential cost to the government for a debt obligation. My request assumed that the maximum potential cost to the government likely to be determined for the loan would be one percent, which would allow a loan of $5 million based on the $50,000 appropriated by the Committee. It is my understanding that if the Secretary of Commerce finds that the potential default rate for the loan is less than one percent, the loan amount would be accordingly higher than the $5,000,000 authorized by the report. For example, if the potential default rate for a future Pacific Coast buyback is determined to be one-half of one percent, the loan could be as high as $10,000,000 based on the appropriated $50,000. Is my understanding correct?

Mr. GREGG. Yes, the Senator's understanding is correct.

Mr. WYDEN. Further, I would like to clarify to the Chairman in my request, I was seeking credit authority for a maximum loan of $35 million. Is it the Chairman's understanding that if the Secretary of Commerce finds there is a potential default rate low enough for a loan of $35 million, that a loan of $35 million could be made?

Mr. GREGG. Yes, this is my understanding.

Mr. WYDEN. I thank the Chairman for this clarification and his recognition of the opportunity presented by the Pacific Coast plan.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) WEATHER RADIO COVERAGE IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that every effort needs to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota's antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, watches, forecasts and other hazard information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota's population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and dispersed population of South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather

Radio coverage. Many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota's population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for attaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

I hope I will have an opportunity to work with members of the conference committee for the Commerce, Justice, State, and Judiciary Appropriations bill in order to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95% population of South Dakota's population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota's NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I ask Senator HOLLINGS, do you support my efforts to enhance statewide emergency warning systems in South Dakota through the acquisition of additional NOAA Weather Radio transmitters?

Mr. HOLLINGS. Yes, I support the efforts of the Senator from South Dakota, and I appreciate your bringing the situation in South Dakota to the Senate's attention. I will work to locate funding for this important initiative.

Mr. JOHNSON. I thank the Senator for his support. With the prediction of a highly volatile hurricane season expected in your region of the country, I am sure the Senator is aware of the immediate warning that NOAA Weather Radios provide emergency managers and residents of his state in preparing for an oncoming storm, and how invaluable this early warning is in mitigating the loss of lives and property. Mr. Chairman, will you support my proposed efforts to increase NOAA Weather Radio coverage in South Dakota?

Mr. GREGG. I will work with Senator HOLLINGS and Senator JOHNSON to locate funding for additional NOAA Weather Radio transmitters for South Dakota.

Mr. JOHNSON. I thank the Chairman for his support, and I deeply appreciate your and the Senator from South Carolina's willingness to work with me on this critically important issue.

SHEA'S PERFORMING ARTS CENTER

Mr. MOYNIHAN. Mr. President, I rise to enter into a colloquy with my colleagues, Senator D'Amato, and the distinguished managers of the Commerce, State, and Justice appropriations bill. Mr. President, we have in Buffalo a wonderful old theater, known now as Shea's Performing Arts Center. It opened in 1926 as motion pictures made their ascendance in the nation's entertainment industry, and was also the site of numerous stage productions. As Buffalo's population shifted to the suburbs or elsewhere, Shea's fell on hard times and was almost demolished in the 1970s. But citizens banded together, formed a non-profit group, and began restoration efforts. Today Shea's is on the National Register of Historic Places and is a cornerstone of Buffalo's downtown. I would ask the managers of the bill if they would encourage the Economic Development Administration to consider an application from Shea's Performing Arts Center and provide a grant if warranted.

Mr. D'AMATO. I also hope that the Economic Development Administration will see the merit in awarding a grant to Shea's. In addition to restoration and preservation efforts, the theater needs to be expanded backstage so that it can accommodate the large touring musicals and other productions that people would flock to downtown Buffalo to see. If Shea's were able to accommodate and present the biggest and best in live entertainment, it would be a tremendous boost for Buffalo's economy. I too hope my colleagues will encourage EDA to give every consideration to an application from Shea's.

Mr. GREGG. As I would like to be of assistance to my colleagues from New York, I do encourage the EDA to consider such an application from Shea's Performing Arts Center within all applicable procedures and guidelines, and to fund it if warranted.

Mr. HOLLINGS. I too suggest that EDA consider and fund an application from Shea's if the application has merit and meets all applicable procedures and guidelines.

Mr. MOYNIHAN. I am deeply appreciative of my distinguished colleagues from New Hampshire and South Carolina.

Mr. D'AMATO. I also thank my colleagues for their help.

ERIE, PA, NATIONAL WEATHER SERVICE OFFICE

Mr. SPECTER. Mr. President, I have sought recognition to comment on the Senate Appropriations Committee's decision to provide funding to reopen the Erie National Weather Service office at least in part starting this Fall. Congressman ENGLISH and I were in Erie in April for meetings with local officials and residents on this important issue and our appropriations success is a direct result of that visit. During that visit, I once again heard the troubling litany of severe weather incidents in Erie, which include blizzards and tornadoes which went unreported and put thousands of residents at risk.

I am pleased that Chairman GREGG was able to fulfill part of my request regarding the National Weather Service's activities in the Erie area and wanted to confirm with him that it is our understanding that pursuant to the language in this bill, the agency will undertake mitigation activities which will include having Weather Service personnel in the Erie office 7 days a week, 24 hours a day, for 6 months beginning October 1, 1998.

I will continue to focus with Congressman ENGLISH and Senator SANTORUM on our goal of reopening the Erie office permanently and ensuring that the office is equipped with the most advanced forecasting equipment available in the federal government. The six-month reopening of the office represents a good interim fix and I thank the Chairman for his help.

Mr. GREGG. I concur with my colleague from Pennsylvania as to my understanding of the agency's intentions. The bill before us provides sufficient funds to reopen the Erie office for six months on an around-the-clock staffing basis as part of the effort to mitigate any degradation of service since the Erie office was closed in 1996. I was pleased to be able to provide at least some of the funds he requested and look forward to working with him on this issue as this bill moves to conference with the House of Representatives.

ESSENTIAL FISH HABITAT

Mr. KEMPTHORNE. Mr. President, I wish to engage the Senator from New Hampshire, the Subcommittee chairman of Commerce, Justice, State and the Judiciary and the Senator from South Carolina, the Ranking Member of that Subcommittee in a colloquy.

As chairman of the Drinking Water Fisheries and Wildlife Subcommittee of the Environment and Public Works Committee, I am concerned that the National Marine Fisheries Service's

guidelines on essential fish habitat have exceeded the scope of congressional intent. In 1996, Congress amended the Magnuson-Stevens Fishery Conservation and Management Act. The National Marine Fisheries Service's interpretation of a provision in that Act concerns me, the States and a diverse range of affected businesses and citizens throughout the country.

Mr. GREGG. The intent of the original provision was to establish procedures to gather information on essential fish habitat, wherever possible encouraging interagency coordination when other administration programs complemented the EFH goal.

Mr. KEMPTHORNE. As my distinguished colleague points out, the original provision was limited, focusing on increased efficiency and, wherever appropriate, information coordination. Congress did not intend to authorize a provision that created a sweeping new regulatory program.

Concerns have been raised about the complexity of the NMFS "essential fish habitat" regulations not add a new level of regulation in addition to what is required under the endangered Species Act.

Mr. GREGG. I appreciate the concerns of the Senator. The report accompanying this bill raises issues about the essential fish habitat program.

Mr. HOLLINGS. I am aware of the report language accompanying the Commerce, Justice, State and the Judiciary Appropriations bill, and I did not object to the inclusion of that language. The EFH provisions of the Magnuson-Stevens Act are intended to address growing concerns over the loss of habitat essential to the health of marine fisheries, including many commercially and recreationally valuable stocks.

Mr. KEMPTHORNE. As envisioned by NMFS, essential fish habitat covers much of the coastal, marine, and estuarine waters of the United States, and it includes some inland habitat for anadromous species. The broad definition of "essential fish habitat" raised concerns that NMFS will apply the EFH virtually everywhere.

In addition, serious concerns have been raised by nonfishing interests regarding their lack of participation in the development of these guidelines. Nonfishing interests were not heavily involved in the development of the guidelines. But when NMFS issued the proposal, a coalition of groups felt that their participation should have been solicited.

Mr. GREGG. It is my understanding that since the NMFS regulation was proposed, that community has offered comments. Given the scope of the EFH proposal, and the wide-ranging impacts on nonfishing entities, I believe the agency should take the view of all entities into consideration.

Mr. KEMPTHORNE. I agree. They object to the scope of the proposed EFH program and are concerned that it will subject activities, including land development, agriculture, water supply, forestry, and mining, to the jurisdiction of the Fishery Management Councils under the Magnuson-Stevens Fishery Conservation and Management Act. Ideally, these guidelines, along with the comments submitted by nonfishing interests, will be thoroughly reviewed and, if necessary, republished by the NMFS. Congress should carefully watch this situation.

Mr. GREGG. The report accompanying this bill directs the General Accounting Office to review the National Marine Fishery Service's implementation of the Magnuson-Stevens Act, including the essential fish habitat provisions. Congress should receive a thorough report on this matter, and I look forward to receiving the results of the GAO's review.

Mr. KEMPTHORNE. I thank the chairman.

PHARMACY RECORD KEEPING

Mr. HATCH. For some time, I have been disturbed over reports that the Drug Enforcement Administration has been imposing multiple, substantial fines for what amount to minor pharmacy record-keeping violations. I am referring to cases in which no unauthorized person obtain control of controlled substances.

Violations of sections 842(a)(5) and (10) of the Controlled Substances Act can result in penalties of $25,000 per violation. I understand that between 1989 and 1997, $50 million in such fines have been assessed.

These provisions of the law adopt a strict liability standard for all record-keeping violations, even a minor error such as a mis-recording of a zipcode, or the insertion of a ditto mark.

While we all favor strong regulation of controlled substances, a rule of reason should prevail here.

For that reason, I am supportive of the thrust of the language contained in sections 118 and 199 of S. 2260.

Section 118 adopts a "knowingly" standard, rather than a strict liability standard.

Section 119 gives the courts discretion in assessing a fine, unlike current law which is not permissive. In addition, this section lowers the maximum penalty per occurrence from $25,000 to $500.

In combination, sections 118 and 119 may provide more correction than is warranted. For example, by adding a scienter requirement, while at the same time lowering the maximum fine, we may be creating an atmosphere in which sloppy record keeping is encouraged.

Overall, however, I am supportive of the work of the Committee in this area of long-standing concern to the Congress, drug wholesalers, pharmacies and drug stores. We should not be using this part of the statute as a "cash cow" to line the government's coffers.

I will not offer an amendment to these sections at this time. However, I am hopeful that I may work with my colleagues in the Senate and the House to address these concerns in conference.

Mr. GREGG. I appreciate the concerns raised by the Senator from Utah. As you know, we inserted this provision after learning of several cases in which large fines were imposed for realtively minor violations of the Controlled Substances Act. We will be glad to work with you and our House colleagues during the conference, and we appreciate your forebearance in not offering an amendment at this time.

COURTHOUSE SECURITY RENOVATIONS

Mr. LEVIN. Mr. President, I wish to engage the distinguished Chairman of the subcommittee in a brief colloquy regarding the very important issue of Federal courthouse security. As I am sure the Chairman is aware, each day Federal courthouses across the country must temporarily detain thousands of prisoners awaiting trials, hearings and interviews. The facilities must be secure because the courthouses are occupied by members of the public and the judiciary. For example, the U.S. Marshal's Service, which oversees Federal courthouse security, recommends that larger courthouses be equipped with a secure garage area referred to as a "sally port" where prisoners can be transferred to the courthouse by van or bus, a detention facility where prisoners can be temporarily held, secure interview rooms where prisoners can be questioned by Assistant U.S. Attorneys, and if possible some separate secure hall or corridor through which a violent or dangerous prisoner can be transferred to a courtroom apart from the public and the judiciary.

Mr. GREGG. I am aware of the security needs of the various courthouses.

Mr. LEVIN. Mr. Chairman, it has come to my attention that many of the older Federal courthouses do not have proper facilities to adequately secure prisoners and assure the safety of the public and the judiciary. For example, in my own state of Michigan the U.S. Courthouse in Detroit, which is a large older courthouse, is in desperate need of security improvements. The building contains no sally ports, and prisoners are transferred from vans and buses in the same modern ventilation systems that control the spread of air bourne diseases such as tuberculosis. Also, there are no interview rooms in which defendants or prisoners acting as witnesses for the Government can be questioned by Assistant U.S. Attorneys or their own counsel. This has led to difficulties for the local U.S. Attorney, and the U.S. Marshal, who has been forced to use extra members of his staff that are needed elsewhere to instead

guard meeting rooms while the interviews take place. Moreover, the Detroit courthouse has no secure corridor to transfer prisoners from the detention cells to the courtrooms so that dangerous prisoners must be transferred in the same halls that are used by the public. Finally Mr. Chairman, the Marshal's Service has informed me that there is also a problem with many newly constructed courthouses, which cannot be opened because insufficient money is available to equip the building with a minimum level of security systems such as security cameras and monitors. I want to commend the Chairman and ranking member for appropriating money specifically for courthouses in Detroit and Grand Rapids. However, I would ask that more money be made available for courthouse security projects.

Mr. GREGG. I am aware of the problems you have raised with respect to courthouse security, and you have made a strong argument on behalf of increased funding for courthouse security projects. I would like very much to fund more courthouse security projects such as those in Michigan. Unfortunately, we are operating under tight budgetary constraints. While there are many deserving projects, the Committee could only fund a limited number. I will continue to work with you in the coming year to solve this serious problem of courthouse security.

SMALL BUSINESS ADMINISTRATION'S OFFICE OF ADVOCACY

Mr. KERRY. Mr. President, as Ranking Democrat on the Committee on Small Business, I wish to express my support for funding the Small Business Administration's Office of Advocacy at the full requested level of $1.4 million for FY 1999. The Office of Advocacy plays a vital role in the Federal government by conducting research on issues of particular importance to small business. Recently these issues have included, among other things, access to capital, procurement policy and the cost of Federal regulations. Small businesses are 99 percent of America's businesses; they created more than 90 percent of new jobs in recent years. The research performed by the Office of Advocacy is an important tool for policy makers and legislators who focus on the nation's small businesses. It deserves to be funded at the full $1.4 million, as requested by the Administration.

Since the Office is typically funded from the SBA's general salaries and expenses account without specific designation, I ask for clarification from my colleagues, Senators GREGG and HOLLINGS, Commerce, State, Justice Appropriations Subcommittee Chairman and Ranking Member, respectively. Was it the Subcommittee's intent to fund the Office of Advocacy's economic research function at $1.4 million?

Mr. GREGG. Mr. President, the bill assumes funding of the Economic Research Division of SBA's Office of Advocacy at $1.4 million for FY 1999. This Subcommittee believes the office has provided good service to the small business community. Much of that work is also useful for Congress and other policymakers.

Mr. HOLLINGS. Mr. President, I concur with Subcommittee Chairman GREGG. The work of the Office of Advocacy is important to lawmakers and policymakers alike. It was our intent that the Office of Advocacy receive FY 1999 funding at the full requested amount of $1.4 million.

Mr. HATCH. Mr. President, I see my colleague from New Jersey Senator TORRICELLI, and the distinguished bill manager on the floor. I would like to briefly engage them in a colloquy on the amendment offered by the Senator from New Jersey, relating to model guidelines on bounty hunters to be published by the Attorney General.

I understand the concerns of Senator TORRICELLI in this matter. None of us want to see abuses by bounty hunters. I am also sure that he does not wish to do any thing to adversely affect the bail bond industry, which has served our criminal justice system well in providing release of non-dangerous criminal defendants pending trial.

Mr. TORRICELLI. I say to the Chairman of the Judiciary Committee that that is a correct interpretation of my intent.

Mr. HATCH. I continue to have some concerns about my colleague's amendment in this respect. However, I believe that these concerns could be resolved during conference. Would the Senator agree to work with me to address this issue?

Mr. TORRICELLI. I would be glad to assure Senator HATCH that I will work with him to ensure that the product that emerges from conference resolves both of our concerns.

Mr. GREGG. Mr. President, I, too, would like to say that I am committed to working during conference with both Senator HATCH and Senator TORRICELLI to address the Judiciary Committee Chairman's concerns.

Mr. HATCH. Mr. President, I thank my colleagues for their consideration, and look forward to working with them on this.

HIGH-TECHNOLOGY ASSISTANCE FOR SMALL- TO MEDIUM-SIZED MANUFACTURERS

Mr. GREGG. Mr. President, my home State of New Hampshire leads the nation in the percentage of private sector employees in high technology jobs. The high technology business in New Hampshire has made the State economy strong and has helped lower the unemployment rate. I am pleased with the investment that high technology companies have made in my state. I am concerned, however, that the benefits to the State from these industries do not reach the more rural areas of New Hampshire. Much of the benefits of the high technology growth have been concentrated in the southern, more urban parts of the State. The more rural areas in the north are not growing as quickly or realizing the benefits of new, innovative technology as widely.

It recently came to my attention that the University of Hew Hampshire's Wittemore School of Business Small Development Center (NH SBDC) has come up with a plan to help the rural areas in New Hampshire take advantage of New Hampshire's technology industries' growth. The NH SBDC proposes to launch a model program to provide technical assistance to small-medium-sized manufacturers (SMMs) in rural areas, which will allow them to benefit from the innovative technology being utilized in other parts of the state. New Hampshire's program could serve as a model for other states that are experiencing similarly slow growth in rural areas. Among the services that NH SBDC intends to provide are: linking rural SMMs to high technology companies; identifying SMMs that have the greatest potential for implementing economic development in rural areas; and helping SMMs identify critical paths to success in their areas.

The NH SBDC would like to implement this plan with funds from the Small Business Administration (SBA). The SBA often funds projects similar to this and, in fact, currently has a successful program in place called the SBA 7(j) program that provides funding for training and technical assistance to rural areas. If the SBA and the NH SBDC work together to develop the plan outlined by NH SBDC, I believe that it could have a significant positive impact on New Hampshire's rural manufacturers. The knowledge gained from this innovative concept can eventually help all States overcome similar problems in rural areas.

I urge the SBA to accommodate the NH SBDC's request for assistance with this project. I look forward to working with the SBA to ensure that this program can be launched to help rural companies all over the United States benefit from the innovative technologies that are used in more urban areas.

Mr. BYRD. Mr. President, I want to applaud the Chairman of the Subcommittee, Senator GREGG of New Hampshire, and the subcommittee's Ranking Member, Senator HOLLINGS of South Carolina, for their work on the Commerce-Justice-State Appropriations bill. They have crafted a good piece of legislation that will help to meet a variety of needs across the country.

One of the important and pressing issues addressed in this legislation is school safety. During the past several months, we have seen several tragic incidents of school violence. These acts

are not limited to specific geographic regions or family backgrounds, nor do they have a single catalyst. Those who have committed such cowardly acts have done so for different reasons, at different times, in different schools. But these acts of school violence have at least one thing in common—they have spurred all of us to take a closer look at what can be done to better protect our children at school.

In this Commerce-Justice-State legislation, the Senate offers one new tool in that effort. We have earmarked $210 million in the bill for a new national safe schools initiative geared to assist community-level efforts.

Parents should not have to worry, when they put their children on the bus to school in the morning, that those children will not return home safely in the afternoon. In an effort to provide local school districts with more resources to reduce the levels of violence in our classrooms, I supported this initiative to strengthen local violence prevention and technology efforts.

Within the $210 million, $25 million will assist communities in developing and implementing local school safety approaches. Another $10 million is for the National Institute of Justice to develop new, more effective safety technologies and communications systems that can provide communities with quick access to the information they need to identify potentially violent youths.

Perhaps most important is the $175 million for the Community Oriented Policing Services Program to increase community policing in and around schools. This would be an extension of the COPS program which has been widely hailed as a successful deterrent to crime. In West Virginia, some school districts already partner with the local police department to have what they call "police resource officers" in the schools. Officers and educators alike believe that having a familiar police presence in the hallways and a cruiser in the parking lot helps to reduce violence at school.

Ensuring that our classrooms are safe demands that we do everything possible to find safe places for our children to learn and play and grow. While there is no single answer or solution to this pressing problem, the funding in this bill is an important step toward that common goal.

Mr. President, also in this legislation is an amendment I added on behalf of the thousands of families in West Virginia's Upper Ohio Valley and throughout the country who rely on the steel industry for their livelihoods. These are the people who work in the shops and in the mills, and who pay the taxes, and whose sweat keeps America running. My amendment calls for a report by the United States Trade Representative on trade subsidies provided by the South Korean government to its domestic steel industry. Illegal foreign steel subsidies are severely undermining the economic stability in regions throughout our country—literally taking money out of the pockets of American families and putting it into the accounts of foreign governments.

The American steel industry for too long has been forced to compete in an international marketplace that was unbalanced by foreign subsidies, especially those of the South Korean government. By offering this amendment, I want to send a clear message: the United States will not allow foreign governments to undercut fair trading practices. This Congress is prepared to defend our country's commercial interests and take action when those interests are threatened.

West Virginia companies, like Weirton Steel, should not be expected to compete in a marketplace that places unfair obstacles in their paths. When foreign governments subsidize industries, they tip the playing field, change the rules, and make it unfair. Those overseas subsidies directly impact the jobs and livelihoods of working men and women and their families here at home, as we have seen in Weirton.

FUNDING FOR GUN PROSECUTION PROJECTS

Mr. HATCH. Mr. President, I appreciate the manager of the bill accepting the amendment I filed to the Commerce-Justice-State appropriations bill, S. 2660, which directs the Attorney General to identify two major metropolitan areas besieged by gun-related crime and to initiate vigorous federal gun prosecution projects in those districts. The amendment directs $3,000,000 in funding for hiring additional prosecutors and investigators to ensure that criminals bearing guns are not released due to a lack of prosecutorial resources.

The inspiration for this amendment is "Project Exile," an extraordinarily successful effort by the United States Attorney for the Eastern District of Virginia to rid Richmond of armed criminals by "exiling" all those who use firearms to commit a crime to federal prison, regardless of the number of weapons or quantities of drugs seized. "Project Exile" also made use of the media to deliver its message that "An illegal gun will get you five years in federal prison." That message was plastered on billboards, a city bus, TV commercials, and business cards distributed by local police.

The results of "Project Exile" speak for themselves. In just one year, over 300 individuals were indicated under Project Exile and 363 guns were seized. More than 191 armed criminals were removed from Richmond's streets, including the members of a violent gang responsible for a number of murders. The average sentence for the individuals that have thus far been convicted and sentenced is 56.1 months. Moreover, homicides for the period from November, 1997 through May, 1998 were running more than 50% below the same period for the previous year and there was a corresponding reduction in the rate of gun carrying by criminals. "Project Exile" has effectively broken the spiral of violent crime in Richmond.

My colleague, the senior Senator from Idaho, introduced an amendment which was passed yesterday which seeks to set up a similar project in the Eastern District of Pennsylvania in Philadelphia. The senior Senator from Pennsylvania had earlier secured this funding in the committee report to this bill. It is important, however, that these projects be tested in a number of jurisdictions to ensure that their effectiveness can be measured in a wide range of circumstances. By setting up a number of test projects in different locales, we should be able to prove beyond any doubt that a truly determined and aggressive effort by law enforcement to rigorously enforce existing federal gun laws will have the effect of lowering the incidence of violent crime and will create safer communities for our citizens.

We don't need tougher gun control laws on abiding citizens to stem violent crime, we need to aggressively use the effective laws we have to take violent criminals off the streets. We saw yesterday where the Senate stands on issues such as mandatory trigger locks on guns and vicarious liability for gunowners, and I am glad that the Senate is devoting even more resources to targeting violent criminals who use guns. I urge my colleagues to support me in this effort.

Mr. McCAIN. Mr. President, I want to thank the managers of this bill for their hard work in putting forth annual legislation which provides federal funding for numerous vital programs. The Senate will soon vote to adopt the Commerce, Justice, State Appropriations Bill for the Fiscal Year 1999. I intend to support this measure because it provides funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. This further addresses the shortcomings of the immigration process, continues the operating of the judicial process, facilitates commerce throughout the United States, and fulfills the needs of the State Department and various other agencies.

However, I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this bill and its accompanying report. This year's bill has $361 million in pork-barrel spending. This is a slight improvement over last year's FY 98 Commerce, Justice, State Appropriations Bill, which contained $384.2 million in pork-barrel spending. However, $361 million is still

an unacceptable amount of money to spend on low-priority, unrequested, wasteful projects. In short, Congress must curb its appetite for such unbridled spending.

The multitude of unrequested earmarks buried in this proposal will undoubtedly further burden the American taxpayers.

This statement highlighting wasteful and unnecessary spending in authorization and appropriations bills may appear to be a mere political ploy. This is not the case. $361 million spent on locality-specific, special interests, pork-barrel projects is not mere rhetoric. Wasteful spending of this amount warrants serious debate. Wasteful spending of this magnitude erodes the public's trust in our system of government.

Sunshine is often the best disinfectant. Congress and the American public must be made aware of the magnitude of wasteful spending endorsed by this body. While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. I take very strong exception to a large number of provisions in the bill before us today.

I have compiled a lengthy list of the numerous add-ons, earmarks, and special exemptions provided to individual projects in this bill. It would take a substantial amount of time to recite this list to you. Instead, I request unanimous consent to include this list in the RECORD. However, I will discuss some of the more troubling provisions of the Commerce, Justice, State Appropriations Bill in detail.

$12 million is earmarked for the Director of the United States Information Agency in the state of Hawaii, in order to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, and an additional $7 million dollars is earmarked for the East-West Center in Hawaii.

$3 million is earmarked in this bill to carry out the provisions of the North/South Center Act of 1991 in Florida, known as the North/South Center, and, an additional $500,000 is earmarked in this bill for the North/South Center in Florida.

$925,000 is set aside to allow the Utah State Olympic Public Safety Command to continue to develop and support a public safety program for the 2002 Winter Olympics.

$5 million is earmarked for the Utah Communication Agency Network for upgrades of security and communications infrastructure for law enforcement needed for the 2002 Winter Olympics.

An earmark of $750,000 to fund Chesapeake oyster research at Texas State University.

Why are we spending $22.5 million on the East-West and North/South Centers alone. What makes these centers so extraordinary that they receive specific earmarks in this Appropriations bill. I am not condemning the North/South or East-West Centers. Nor am I condemning the merits of the purposes they serve. I am simply condemning the manner which they are receiving scarce government funds.

I am sure there are other centers throughout the U.S. which serve the same or similar missions as the North-South and East-West Centers. Other well-deserving projects of merit and national necessity deserve to compete for the scarce funds gobbled up by locality specific earmarks such as the North/South and East-West Centers. Unfortunately, these projects will never receive fair deliberation if the Appropriations Committee pre-determines their fate by "recommending" and "urging" the Department to give special consideration to certain projects over others. In sum, it is patently unfair to divert scarce resources to pork-barrel, special interest projects, at the expense of well-deserving projects which would benefit the public as a whole.

The bill also contains language that directs the Immigration and Naturalization Service to expand the duty station in Grand Junction, Colorado. Moreover, this language directs the INS to open new duty stations in Alamosa, Glenwood Springs, Craig, Durango, and Greely, Colorado. The Committee does not explain why specific sites are higher in priority than others, or why these sites are more deserving of funding. I fail to comprehend why these locations should receive such special attention while the rest of the nation must compete for funds in the appropriate merit-based selection process.

Mr. President, I will not deliberate much longer on this subject, but I strongly object to the wasteful spending in this Appropriations bill. How can we combat the American public's cynicism towards our governmental system when we continue to fund low-priority, wasteful pork-barrel projects?

I urge my colleagues on both sides of the Capitol and on both sides of the aisle to develop a better standard which curbs our habit of funneling hard-earned taxpayer dollars to locality-specific special interests. Commitment to the public good must continue to be our priority. We can only live up to this challenge by eliminating the practice of catering to low-priority special interests, at the expense of the average American.

As I have said in the past, I look forward to the day when Congress can present to the American people a budget that is both fiscally responsible and ends the practice of wasteful pork-barrel spending in Appropriations bills.

FOREIGN AFFAIRS AGENCIES

Mr. BIDEN. Mr. President, as we close debate on the Commerce, Justice, State appropriations bill, I would like to make a few comments on the funding for the foreign affairs agencies.

I want to express my appreciation to the Chairman and Ranking Member of the Subcommittee for their efforts to provide adequate funding for the foreign policy agencies within the tight allocation they have. The United States is a great military and economic power, with extensive interests overseas. To protect those interests, we need both a strong military and a strong diplomatic corps. "Diplomatic readiness" is more than a slogan; it represents a commitment to ensure that our diplomats, who stand on the front lines of our national defense, have the resources to perform the many tasks we entrust to them.

I commend the Committee for providing, in particular, the necessary funding to modernize the Department of State's information technology. The Department made some bad choices in previous years, and is now saddled with antiquated computer and telecommunications technology. Information is central to the task of diplomacy, and we are undermining our interests substantially unless we properly equip the Department with modern technology.

I'd like to say a few words about the Bureau of Export Administration in the Department of Commerce, which performs several functions that are vital to the national security of the United States. The managers of the bill before us were unable to find $2.5 million for three of those vital functions. I appeal to the managers to make every effort to find those funds in conference, so that we can continue to safeguard the national security as the American people expect us to do.

These important Export Administration needs are as follows:

Ten new positions (8 full-time equivalents) to fully staff Export Administration field offices, so that they can mount more intensive enforcement of U.S. controls over dual-use items that could otherwise be diverted to military or terrorist uses;

Three new positions (2 full-time equivalents) to enhance the enforcement regarding shipments to Hong Kong, so as to prevent or stop any diversion of strategically-controlled goods to China; and

Six positions (4 full-time equivalents) to maintain the Nonproliferation Export Control teams that help countries in the former Soviet Union to improve their export control systems.

The first two items, which require a total of $2.2 million, are self-explanatory. At a time when we have legitimate concerns regarding the possible Chinese diversion to military purposes

of machine tools and high-speed computers, we must give the Bureau of Export Administration the funds and positions it needs to fully enforce U.S. law and regulations that control such exports and provide for follow-up monitoring of their overseas use.

The Nonproliferation Export Control teams require a word of further explanation. This function—which is part of the Cooperative Threat Reduction program—has proceeded for some years with funding from the Department of Defense and the Department of State. The Department of Commerce agreed last year, however, to assume the costs of its participation in that program. The State and Defense budgets no longer include funding for the Nonproliferation Export Control teams. If Commerce Department funds are not found for this purpose, this valuable program could well be lost.

What would we lose if the Nonproliferation Export Control teams were to go away? Those teams have performed incredibly well, fostering ties at the customs agent level and helping the former Soviet states to establish export control laws and institutions to can prevent the loss of sensitive goods and information to rogue states or terrorist groups.

For example, the Government of Ukraine wants a team to help brief members of its parliament on inadequacies in Ukraine's current law. The Government of Slovakia wants help in developing regulations to implement its new export control law. Export Administration's teams support these efforts in full cooperation with other U.S. departments and agencies.

I realize that resources are tight, but it would be a grave mistake, in my view, to let this valuable non-proliferation resource slip away from us. So I urge my colleagues, the managers of this bill, to find the $1.3 million needed to keep the Nonproliferation Export Control teams alive and well in Fiscal Year 1999. I also urge them to find the $1.2 million needed to improve our own export enforcement regarding dual-use goods that we must prevent from being used against U.S. interests. I realize these are small amounts in a bill that funds three large cabinet departments, but they could go a long way in advancing our non-proliferation interests.

In closing, I want to again express my appreciation to the managers of this bill. They had a very difficult task in balancing all the competing interests in this bill, and I believe they did an excellent job in balancing those interests.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. I ask unanimous consent that at 3:15 we begin the vote on the Smith amendment, to be followed by the vote on final passage.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. 3258, AS MODIFIED, AS AMENDED

Mr. GREGG. Mr. President, I ask for the yeas and nays on the Smith amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I call for the regular order.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3258, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

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

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—68

Abraham	Domenici	Mack
Allard	Enzi	McCain
Ashcroft	Faircloth	McConnell
Baucus	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Graham	Nickles
Bingaman	Gramm	Reid
Bond	Grams	Robb
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Bryan	Hagel	Santorum
Bumpers	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hollings	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cleland	Hutchison	Snowe
Coats	Inhofe	Stevens
Cochran	Jeffords	Thomas
Collins	Kempthorne	Thompson
Coverdell	Kerrey	Thurmond
Craig	Kyl	Warner
D'Amato	Lott	Wyden
DeWine	Lugar	

NAYS—31

Akaka	Dorgan	Harkin
Boxer	Durbin	Inouye
Byrd	Feingold	Johnson
Conrad	Feinstein	Kennedy
Daschle	Ford	Kerry
Dodd	Glenn	Kohl
Landrieu	Mikulski	Sarbanes
Lautenberg	Moseley-Braun	Torricelli
Leahy	Murray	Wellstone
Levin	Reed	
Lieberman	Rockefeller	

NOT VOTING—1

Specter

The amendment (No. 3258), as modified, as amended, was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3322

(Purpose: To amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. DURBIN, proposes an amendment numbered 3322.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

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

Without objection, it is so ordered.

The amendment (No. 3322) was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Regular order.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—99

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

NOT VOTING—1

Specter

The bill (S. 2260), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

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

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—MODIFICATION TO AMENDMENT NO. 3278 TO S. 2260

Mr. SHELBY. Mr. President, on behalf of Senator GREGG, I send amendment No. 3278 to the desk. I ask unanimous consent it be so modified.

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

The modified amendment follows:

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter should be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of the United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

PATIENT ACCESS TO ACUPUNCTURE SERVICES ACT OF 1998

Mr. HARKIN. Mr. President, I wanted to make a few comments on a bill that Senator MIKULSKI and I introduced just yesterday. The bill number is S. 2340. It is called the Patient Access to Acupuncture Services Act of 1998. It will provide limited coverage for acupuncture under Medicare and under the Federal Employees Health Benefits Program. It is an important bill that reflects an appropriate and needed response to both progress in science and to the demand for complementary and alternative treatments for pain and illness.

I acknowledge Senator MIKULSKI's strong support for the bill and for cosponsoring the bill. She has been a strong supporter of effective alternative therapies and has long realized and appreciated the importance and significance of such therapies to our health care system.

Mr. President, approximately 90 million Americans suffer from chronic illnesses, which, each year, cost society roughly $659 billion in health care expenditures, lost productivity and premature death. Despite the high costs of this care, studies published in the Journal of the American Medical Association reveal that the health care delivery system is not meeting the needs of the chronically ill in the United States.

Many of these Americans are looking desperately for effective, less costly alternatives therapies to relieve the debilitating pain they suffer. In 1990 alone, Americans spent nearly $14 billion out-of-pocket on alternative therapies. Harvard University researchers have found that fully one-third of Americans regularly use complementary and alternative medicine, making an estimated 425 million visits to complementary and alternative practitioners of these therapies—surpassing those made to conventional primary care practitioners!

And with good reason. Last November, a consensus conference of the National Institutes of Health approved the use of acupuncture in standard U.S. medical care. It was the first time that the NIH had endorsed as effective a major alternative therapy, and it was just the type of medical breakthrough that I had hoped for and envisioned when I worked to establish the Office of Alternative Medicine at NIH.

The NIH experts cited data showing that acupuncture can effectively relieve certain conditions, such as nausea, vomiting and pain, and shows promise in treating chronic conditions such as lower back pain, substance addictions, osteoarthritis and asthma.

In 1993, the FDA reported that Americans spent $500 million for up to 12 million acupuncture visits. In 1996, after reviewing the science, the FDA removed acupuncture needles from the category of "experimental medical devices" and now regulates them just as it does other devices, such as surgical scalpels and hypodermic syringes. Acupuncture is effectively used by practitioners around the world. The World Health Organization has approved its use to treat a variety of medical conditions, including pulmonary problems and rehabilitation from neurological damage.

It has been reported that more than 1 million Americans currently receive acupuncture each year. Access to qualified acupuncture professionals for appropriate conditions should be ensured. Including this important therapy under Medicare and FEHBP coverage will promote a progressive health system that integrates treatment from both acupuncturists and physicians, and in many cases we see more and more where physicians are acupuncturists. It will expand patient care options. I also believe it will reduce health care costs because of the relatively low cost of acupuncture compared to conventional pain management therapies.

Research is still needed to demonstrate the effectiveness of other alternative therapies. This research is vitally important, but we must act now to help the millions of Americans who can benefit from the knowledge we have already gained.

The 21st century is just around the corner. Less than 50 years ago, treatments that are now considered conventional—organ transplants, nitroglycerin for heart patients, immunology, and x-ray and laser technology—were decried as quackery by the medical establishment. Everyday we face new biological and emotional challenges for which modern Western medicine has no remedy. Now science is revealing the effectiveness of many complementary and alternative treatments, including acupuncture, which I might point out is not a new treatment but, indeed, has been practiced in China for the last 2,000 to 3,000 years, and, increasingly, more Americans are choosing these alternative therapies to manage their health and to treat the illness.

Let us listen to the science, and heed the urgent need for progress. Mr. President, the nation's leading scientists have demonstrated the safety and effectiveness of acupuncture as a treatment for a wide range of pain and illness. It makes common sense that Medicare and FEHBP cover this legitimate course of therapy.

I invite other Senators as cosponsors. Hopefully, we can get the bill passed during this session.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, on February 25, 1997, a number of us introduced the Patients' Bill of Rights. Since that time, the Republican leadership has sought to delay and deny action. The leadership and Senator GRAMM have made it very clear that they are not yet willing to allow a free and fair debate.

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

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. LOTT. I would like to say to the Senator that we would be glad to agree to have this debate and go forward with the Patients' Bill of Rights issue. I would like to begin thinking in terms of what we could work out as a unanimous consent agreement. Going back to June 18, originally it was suggested that Senator KENNEDY's bill be up and we have an alternative, and that we have a good debate and vote. That is fine. Let's do that. Then I suggested, well, if we could get some time agreements on when we could complete it, with some limited amount of amendments, we could do that. I don't think 40 would be considered reasonable.

But I am saying to the Senator that I would like to work something out. I am hoping that next week, Wednesday or Thursday, we are going to get to this and get it done before we go home for the August recess period.

I just want to say that we are ready. We would like to do this. Beginning next week, I am going to start asking unanimous consent requests to actually get it done, because we are ready to go to a vote. But we also have other things. And Senator KENNEDY has been cooperative. We have been working to get issues done. We need to try to do that and allow time for a full and fair debate on this issue. We would be glad to do that.

I just wanted to make sure he was aware that we are willing to do that.

Mr. KENNEDY. Mr. President, I have heard that same explanation, with all respect, by the majority leader for some period of time.

I want to just review, since the majority leader is on the floor at the present time—we had the budget resolution. We had 7 days of debate. We had 105 amendments. Defense authorization, we had 6 days of debate, 150 amendments; Internal Revenue Service restructuring, 8 days of debate, 13 amendments. We had tobacco, 17 days and scores of amendments; agriculture, 5 days of debate and 55 amendments. The Senator now is saying, Well, we will bring it up next week, just before we get out, and have a vote on your amendment or the Daschle bill and/or the Republican proposal.

Mr. President, I just wonder why we can't have a full debate on the comparison between the emergency room provisions of the Republican guarantees and those in the Patients' Bill of Rights.

I intend to talk about those—now I have the floor. I have the floor. I am glad to yield—but when I inquired of the leader on other occasions, he gave us that other little answer about, "We are going to come to this sometime when we are ready to come to it, some other time, next week, and maybe Wednesday, or Thursday, just before we go out we will have some proposal." We are just spelling out now what has been included in these different bills and why it is important to have a full and fair debate on them.

We have seen and we know what the leadership's position has been until the very recent days, and that has been to refuse to permit us to have a markup in our committee, refused us to be able to even have scheduling. I have seen the list of the Republican leadership, and it never was on the list of the Republican leadership in terms of priorities.

Now we are glad that last Friday there was the publication of the "Republican Bill of Rights." That was last Friday. But I want to just review, since the leader mentioned the proposal that was put forward by the leader. This was, I believe, the June proposal that was put forward by the majority leader.

I ask unanimous consent that prior to the August recess [June 18, that was 4 weeks before, June 18] prior to the August recess, the majority leader, after notification to the minority leader, shall turn to the consideration of a bill to be introduced by the majority leader [no information about what that is] or his designee, regarding health care [and further] I ask the Senate to proceed to its immediate consideration; and that, following the reporting . . . by the clerk, Senator DASCHLE, or his designee, be recognized to offer a substitute to the text of S. 1891 as introduced on March 31.

That isn't our bill.

Now, it goes on. It does not include the right to hold the plans accountable. It does not include protecting people who buy their own insurance policy.

Let me just go on.

I further ask that during the consideration of the health care issue it be in order for Members to offer health care amendments in the first and second degree. I further ask unanimous consent that the Chair not entertain a motion to adjourn or recess for the August recess prior to a vote on or in relation to the majority leader's bill and the minority leader's amendment, and that following those votes it be in order for the majority leader to return the legislation to the calendar.

Even if we win the vote, the majority leader has the ability to send it to the calendar—not send it over to the House of Representatives, send it to the calendar, even if we win that proposal.

Now, it continues.

Finally, I ask unanimous consent that it not be in order to offer any legislation, motion or amendment relative to health care prior to the initiation of the agreement and following the execution of the agreement.

Not be in order to offer any legislation, motion or amendment to health care.

Well, there it is, Mr. President. We are scared in the Senate. After we have some vote, even if we survive, the majority leader can put it back on the calendar, and under the consent agreement we can't even talk about health care for the rest of the session; for the rest of the session. That is what it says here, the rest of the session.

Now, that is the consent agreement that is referred to. "I want to remind the Senator from Massachusetts we keep asking the Democrats for proposals on it."

I don't know how long it took to reject that particular proposal, but there it is. In all the time I have been in the Senate, this is really the most preposterous proposal, consent agreement I have ever heard, that if you are going to be successful and win, instead of sending the bill over to the House, you put it right back on the calendar, and you cannot have a vote on the legislation. And then after that, you can't bring up any issue relating to health for the rest of the session—nothing on privacy, nothing on expanding the whole Medicare system in terms of purchasing, the possibility for elderly citizens to buy into the Medicare system, no way. Nothing dealing with any of the issues dealing with health care. That is the proposal and that is what we are supposed to say, "Oh, what a fair proposal this is."

And so we have the Republican proposal that was introduced last Friday. Now, we have no interest in delay of the legislation. We have been asking for action for 18 months. We insist on a fair debate on accountability. That is what we are asking, fair debate on accountability. We have had scores of amendments and days of debate on other legislation, and we are entitled to fair debate on accountability on these measures.

There are dramatic differences on these measures. I will take a few moments to get into some of those.

Senator DASCHLE made a series of formal offers on July 16th, asking for a debate beginning on July 21 with 20 amendments on a side. It is almost a week later and all we have is that maybe sometime Wednesday or Thursday next week we may have time to have a debate on an issue which is of paramount importance for the parents and families of the people of this country.

So this is not an unreasonable request given the importance of this bill

and the large number of loopholes in the Republican proposal which will be the bill in the Chamber.

We had, as I mentioned, days of debate on the budget resolution, 6 days of debate on defense authorization, 150 amendments. We had 8 days of debate on the Internal Revenue bill, just concluded 5 days of debate and 55 amendments on the agricultural appropriations bill.

This is the most important health care bill that this Congress will consider, and we are now told by the majority leader that maybe sometime next week he will make a request that we deal with this in 2 days. We had 8 days, as I mentioned, on the Internal Revenue bill, and 5 days of debate, as I mentioned, on agriculture. Now, the majority leader and Senator GRAMM are insisting the only way they will debate the issue is up or down on their bill and one vote and that is it.

The American people deserve to know where their Members stand on a number of critical issues that are essential to patient protection. The Senate deserves an opportunity to amend and improve the Republican bill. It is not unreasonable to ask Members where they stand on whether protections should apply to all 161 million privately ensured Americans or leave 100 million out. The Republican proposal leaves out more than 100 million Americans. Now, maybe they have good reason to do so. Their answer is the States are doing it. Well, we ought to have an opportunity to find out and discuss what the States are doing and how much they are doing and how effective it is, given the kinds of concerns that patients have. Let's have a debate on that. But, oh, no. No, no, we don't have time to get into the fact of whether their measure will just cover 48 million and exclude 110 million, or cover all of them. It is a pretty important issue, it seems to me, Mr. President.

Is it unreasonable to ask Members where they stand on allowing a sick child with rare cancer access to a specialist to treat that particular disease?

We had very powerful testimony this morning from a very outstanding oncologist, a specialist who has been operating primarily on women with breast cancer, and she was, with tears in her eyes, talking about the various patients she is treating now who come to her with these various tumors in their breasts. And she looks at the first part of the chart and finds out what the size of that particular tumor was when it was first diagnosed and then what it is on the day that she is there called upon to operate.

She says the time that lapses between the first discovery of those biopsies, which demonstrate that the tumors are cancerous, to the time she gets to see them is often the difference between life and death and more often than not, as she looks over the various files that she gets of various women, the ones with the largest gaps are the ones who are part of HMOs and the procedures that have been denied.

Or listen to the doctor who was talking today about a particular procedure that was going to be necessary for a child who was having constant headaches, and the doctor said, "What we need is an MRI," and the HMO turned that down. Under the Republican bill, since the cost of that MRI was $750, that decision would not be able to be appealed. It was less than $1,000. This was a family of five, income of $30,000. The difficulty of that family was having the $750.

And do you know what the family did? They went down to the county hospital—the county hospital. After a period of time, they were able to get that MRI in the county hospital to find out about the needs of that particular child. You know something. The taxpayers picked up the tab for that. And the bottom line of that HMO looked better and better because they didn't have to pay for that important service which the subscriber had effectively paid for when they signed on for the health care coverage.

Mr. President, we ought to be able to talk and debate about what is going to happen, what kind of protections are we going to give doctors when they speak out for their patients in the HMO system. Are they going to be under the Republican program which still permits doctors to be fired if they object to prescribing certain procedures to patients that are not desired or approved by an HMO? Shouldn't we provide protections for doctors that are looking out for their patients? It is not in the Republican bill. Shouldn't we have a time to debate that issue out here to find out about it?

What about the independent and timely third party review? Do the Members know that on the independent review, under the Republican program, those who are going to be paid to review the various procedures which are being reviewed and appealed are going to be paid for by the HMO, the same HMO? Do they know the restrictions in the Republican proposal in terms of the limitations for the types of procedures that can be appealed? We don't want to debate that?

I can understand why the Republican leadership doesn't want to debate it. Because it is indefensible. It is indefensible. We ought to debate it.

And access to clinical trials, an enormously important issue, particularly for individuals who have some of the most serious illnesses in our society, we are going to say or give assurance to those who may have breast cancer—are we going to exclude them from participation in those clinical trials? It is an important distinction between the Republican proposal and our Patients' Bill of Rights.

We have the continuity of care. When a family has a doctor they are seeing and that doctor is dropped from a particular program, under our proposal we provide that there is going to be a continuity of care. Perhaps it is an expectant mother who is going to deliver and, for one reason or another, that doctor is dropped from the particular plan. We give assurances.

So does the Republican program. Listen to this. If the employer, however, makes a judgment to change the plans in the middle of the year, and that doctor is treating this same patient, under the Republican program there is no longer continuity of care. Both programs show continuity of care. You have to read the small print; you have to understand what the small print says. Shouldn't we have an opportunity to debate that issue?

The whole question of accountability is something that demands an opportunity to debate that issue. We are talking about the protection that is given to 23 million Americans, county and State employees; 11 million Americans who have private insurance companies. There is no indication there is any escalation of their costs in their program, nothing showing that has been introduced here in the Senate. Some have tried to represent these as extraordinary escalations of cost, but there is no indication, nothing has been put in the RECORD. What has been put in the RECORD is these 23 million Americans. In CalPERS, in California, they have this system with accountability and liability built in so they can hold the HMOs accountable, and there is no apparent increase in the cost of those programs.

Basically, what we are saying is very simple, a very simple concept at the heart of our proposals and which I believe the Republicans have to be able to defend, because it is lacking in their proposal and it is worthy of debate. That issue alone is worth hours of debate here in the U.S. Senate, with the American people watching, because we believe that ultimately the judgment and decision on medical decisions ought to be made by the doctors and the patients, and not by accountants of insurance companies for the profits of those particular insurance companies. That is a basic and fundamental core difference. We ensure that is going to be the case with a number of different protections in our bill. That kind of assurance is lacking in the Republican bill.

There will be those who say, "No, it is not lacking." We ought to have a chance to debate, so the American people can make up their own minds and find out whether it is lacking. We can get the legislation out and show where it is lacking. But that is something basic and fundamental.

We also believe we ought to be able to leave it up to the States to make

those judgments and decisions on calling the tune on the issues of accountability and liability. We hear a great deal around this body about "one size does not fit all," that all knowledge is not in Washington, DC, or on the floor of the U.S. Senate; that the States have some awareness and understanding about these issues and problems. How many times have we heard that speech? You have heard the speech, but you will not hear it when we are debating the Patients' Bill of Rights. You will not hear it because our proposal leaves it up to the States to be able to enforce the issues of accountability. We leave it up to the States to be able to do so. Not the Republican leadership program. They effectively preclude the States from having any voice—shut them out, shut out the States.

I hope we don't hear that argument about the importance of all knowledge failing to be in the U.S. Congress and Senate, so let the States decide. That is not going to be an argument you will hear, because under the Republican proposal they will not let the States decide.

What is the issue we are talking about? We are talking about a medical decision that is made by the doctor and the patient, which is overruled by the HMO and causes grievous injury to that individual—maybe life or serious illness; maybe a mother or father, trying to make sure those children and the members of the family are not just going to be left homeless, without any kind of compensation for the decision that is being made for the profits of that particular industry overriding the clear medical decisions. There has to be accountability. There has to be accountability.

We have seen effective programs which we have built into programs on appeals, internal appeals and external appeals, that also have accountability. It works. We improve and strengthen the quality of those programs. We have 11 million Americans—11 million Americans—who have independent insurance programs that have this kind of accountability. It works for them.

So we have 34 million Americans who have this kind of protection, but we are asked to exclude it, to deny the States from even letting those citizens who live in that State who want it from having it. That is part of the Republican program. Don't we think that is worthy of a debate? Do you want to muzzle us from having some kind of debate and discussion on that particular issue? That just does not make sense.

Mr. President, when the leadership wants to go ahead on these appropriations, I am glad to yield the floor so the Senate can move ahead on Senate business. But I want to just make a final few comments.

Mr. President, I believe the Republicans have abandoned their 16-month-long pattern of stonewalling our Patients' Bill of Rights. Now they have produced a plan that borrows the name of our legislation and nothing else. The Senate Republican plan is not a bill of rights, it is a bill of wrongs. The Senate Republican plan is even weaker than the House Republican plan. It is a "Gingrich lite." It protects industry profits instead of protecting patients, and it is so riddled with loopholes, it is a license for continued abuse. It allows insurance company accountants to continue to make medical decisions, and not doctors and patients.

It is very interesting that 170 organizations that represent doctors, patients, and nurses support our program. And who supports the Republican program? The insurance industry and the HMOs. Does that tell you something? Does that tell you something? Mr. President, on this issue it tells us a great deal. This is not a question where we have some ideas, and half the doctors in the country and half the patients' organizations say this is a better idea, and our colleagues on the other side have half of them, and people can say, "Why don't you get together?"

They don't have them. They don't have them. They don't have the principal organizations. I will be glad to hear any organizations representing health professionals or patients groups that they have.

We still haven't heard. I can't believe if you didn't have them, they wouldn't have them out there. We have them. They support our program. They support the real Patients' Bill of Rights.

But they do have the health insurance industry and they have the HMO organizations, the trade organizations that represent HMOs—they support their program.

Mr. President, we believe that patients with cancer and heart disease and other serious illnesses will not have timely access to specialists and the treatment they need. It immunizes managed care plans from liability for abuses that injure or even kill a patient. No other industry in America has this immunity from any liability which the health insurance industry has and which is protected in the Republican program, and the managed care industry doesn't deserve it either.

Most of the minimal protections in the Republican leadership plan do not even apply, as I mentioned, to the majority of Americans. Two-thirds of the people with private insurance, more than 100 million Americans, will not benefit from the Senate Republican plan. The HMOs are effectively exempt from regulation under their plan because most of their standards apply only to employer-based, self-funded plans. Let me repeat that. Most of the standards in the legislation do not even apply to the HMOs, only to employer-based, self-funded plans covering about a third of privately insured Americans.

Even if the Senate Republican leadership plan was passed, 100 million Americans would be left out. This is unacceptable to the American people and should be unacceptable to the Senate.

The Senate leadership introduced their legislation on Friday. I reviewed the print over the weekend, and the sum total of what is not in their plan at all is staggering. The fact that these minimal protections only apply to a third of the people who need help is shocking. But the disinformation campaign does not end there. Even the protections they claim to have provided turn out, in most cases, to be less than half a loaf.

In my time, I have seen special interest protection programs masquerading as consumer protection programs many times, but I have never seen anything as indefensible as this. The Republican plan does not include many key protections.

There is no provision to prevent health plans from arbitrarily interfering with the decisions of the doctors.

There is no provision to guarantee access to necessary speciality care.

There is no provision to allow individuals killed or injured by plan abuse to hold the plans liable.

There is no provision to allow participation in clinical trials.

There is no provision to allow access to prescription drugs not on a plan formulary.

There is no provision for continuity of care when an employer switches plans.

There is no effective ban on plan practices which gag physicians; no limits on improper incentive arrangements.

We were looking to address this issue of gagging the physician. They say, "Oh, yes, we have that; we have a provision that says we will not gag physicians." The problem is, unless you address the firing clauses of the HMOs that permit the heads of the HMOs to fire doctors whenever they want, then the gag provisions are meaningless, because they can say, "OK, you can go out and talk all you like, but you're not coming in to work tomorrow." Let's get real on this, Mr. President. That is effectively what the Republican program does.

It has no prohibitions against these financial incentives for doctors. It won't publish financial incentives for doctors so that the public, in reviewing a plan, can find out if a doctor has financial incentives for providing certain kinds of treatment and not providing others, which is happening today. We have given examples of those types of procedures. There are no protections for that.

It does not include a requirement for comparative plan quality information. You cannot find out about the consumers', the patients', satisfaction.

You can't find that out. If you ask to find that out, they say, "Well, that's going to be too bureaucratic; that is going to require too much paperwork; that is going to be a rule or regulation, it is going to be a Federal Government rule or regulation, that is going to raise costs for these particular programs."

What we are talking about is patient satisfaction, patients staying in these programs: Are they satisfied with these programs? Good ones provide that, Mr. President. These are the elements that are left out of the Republican plan entirely, but even those essentially included are full of loopholes.

The Republicans say they protect you if you need emergency room care, but they have included less than half of the protections provided by the Democratic plan or even the protections that are already included in Medicare. I wonder how many of our colleagues know that the protection that they have indicated on the prudent layperson, prudent layman standard is an entirely different one from the one that is in Medicare. Who would have known that?

Mr. BIDEN. Will the Senator yield for a question?

Mr. KENNEDY. I will be glad to yield.

Mr. BIDEN. I know the Senator knows a great deal about this, but I watched the press conference our Republican colleagues held hailing their Patients' Bill of Rights. You just went through and will continue to go through all the things they left out. I find it very curious the things they say are in their bill, which, in fact, are not in their bill.

One, they say that a woman can pick as a primary care physician an ob/gyn. Second, they advertise that this means you have access to the emergency room. Third, they talk about continuity of doctors so they say you can choose your doctor. And fourth, they say no gag rule. This is the party of gag rule, and now they say no gag rule. I kind of respected them when they were just flat out saying they were just against any of this.

Does the Senator have an explanation as to why they would pick the four most often stated complaints of the American public and suggest that their bill covers those things? It just seems strange to me that the party of the gag rule says they want an antigag rule, and yet there still is no antigag rule; that the party that said when they were going after Clinton's health plan, you should be able to choose your own doctor, will not allow you to choose a specialist or choose the doctor you need; that the party that suggested the costs of the Clinton plan were too high and everyone could just go to the emergency room are not, in fact, providing access to emergency room care the way in which the American public is looking at it. Why did they pick these four things to say they were for and not any of the rest? Is there some strategy here I am missing?

Mr. KENNEDY. Those happen to be the ones that have shown the highest in the polls. I am not saying that is the reason they selected them necessarily. As the Senator was going over them, I was writing them down. Those are the ones that are the top in terms of the polls.

I say to the Senator, what I would like to ask him is, here the Republicans talk about the market forces, that we ought to let people, consumers, make judgments on the basis of information. Under our proposal, we have tried to have information so that people can make the judgment and decisions with regard to their health care plan. Patient satisfaction, for example. Patient satisfaction—not very difficult. Most of the good ones show that in any event.

Absolutely not, they point out, and say: We are not going to provide or support any of that additional information because that is a bureaucratic ruling; it is going to cost the HMO more to require that; therefore, we cannot support even that particular proposal.

But the Senator is quite right. They use these words, "speciality care," "emergency room," and the "gag rule."

The spokesperson for the College of Emergency Physicians visited with us today. I think the Senator was there at the time. She reviewed instance after instance after instance where just the words, "the protections of access to the emergency room," were vacant and empty and without the protections that are included in the Patients' Bill of Rights and resulted, in one instance, in the loss of a leg of a young child, the horrific condition of a young girl who had a serious dislocation and her vital signs dropped dramatically and was in real danger of death, and other instances that were taking place in the emergency room.

Mr. BIDEN. Well, let me say to the Senator that I, quite frankly, admired—disagreed, but admired—my Republican colleagues when they made no bones about the fact that they did not want any interference in any way by the Government to do anything about HMOs. At least theirs was a principled stand. They said, "Look, the insurance companies, in driving down costs, are more important than all these other factors. We're not going to do anything."

What bothers me—and this is me; you are not saying this, I know it, but I am saying it—what bothers me is the apparent cynicism of picking four items which most often my constituency speaks to, to say they are covered, and nothing else. And even when you look into those four items, they are not really covered.

They are going to be going around—and the insurance companies are spending tens of millions of dollars in ads—saying, "We want you to have the right to choose a doctor."

Wait a minute. That is what they said before. But under the Republican bill, the American people can't choose their doctor, if the doctor they happen to need is a specialist, if the doctor they happen to need is in an emergency room and they don't meet the standard that the HMO sets.

I have not been nearly as involved in this debate as my friend from Massachusetts. And as the old joke goes: He has forgotten more about health care than I am going to learn. But I would feel better about what is going on here if the Republicans said what they truly believe, "Hey, look, we're not changing our position. We don't think you should be able to choose your own doctor. We don't think there should be an antigag rule. We don't think you should change the requirements to get emergency room access. We don't think that a woman should be able to choose her gynecologist as her primary physician."

Let me tell you what I think they figured out. I know of no wrath like that of the wrath of a woman who says, "I can't go to the doctor that I need and trust the most." And so they seem to be yielding only in places—and only in part—where the loudest cries are coming from. But, there are so many, many, many, many loopholes in what they say they are doing, and so much they leave out.

I kind of yearn for the day when they just stood up on the floor like they do on guns and say, "Hey, look, guns are not bad. You know, guns don't kill people. People kill people." I kind of like that. I admire it. But this, I don't know.

There will be a multimillion-dollar campaign we are all going to endure, and you do not have to be a rocket scientist to figure out where this is going before this is all over. And I expect I am going to hear your name mentioned a couple hundred thousand times before this is over, too. But at any rate, I thank you for answering my question.

Mr. KENNEDY. I thank the Senator for his interest and also his strong advocacy in terms of the people in his State on this issue. We want you to know that we are still committed to trying to get something worked out. This matter is too important for the reasons that the Senator has outlined. We still want to try and get something worked out. We had been taking a long time before we could get even the recognition of a bill on the other side. Now we ought to go about what is in the best interest of the patients in this country.

I just mention, finally, to the Senator, what I was just talking about: Every doctors organization, every

nurses organization, every health professional and patients organization supports our proposal. We have not got a single one on the other side except the health insurance companies and the HMO plans on it. So we want to try and work this out. We are going to do the best that we can. But we are not going to yield in terms of protecting the interests of the consumers.

I thank the Senator.

Mr. BIDEN. I thank the Senator.

Mr. KENNEDY. I want to take just a few moments to review this very moving testimony in terms of the emergency rooms. These are comments made by Dr. Charlotte Yeh, who is the Chair of the Federal Government Affairs Committee for the American College of Emergency Physicians. And these are comments that she made.

In Boston, a boy's leg was seriously injured in an auto accident. At a nearby hospital, emergency doctors told the parents he would need vascular surgery to save his leg and a surgeon was ready and available in the hospital.

Unfortunately, for this young man, his insurer insisted he be transferred to an "in-network" hospital for the surgery. His parents were told if they allowed the operation to be done anywhere else, they would be responsible for the bill. They agreed to the move. Surgery was performed three hours after the accident. But by then, it was too late to save his leg.

These are not episodes from the TV program, "ER." These are not anecdotes. They are real people with real lives.

A bipartisan majority in the Congress has called for enactment of standards that will put an end to episodes like the ones I just described. Last year, the Congress adopted the prudent layperson standard and other protections for Medicare and Medicaid patients seeking emergency care. We thought there was a consensus on this issue!

There was consensus on this issue, Mr. President.

Just a few weeks ago, we were delighted to see that Republican Task Forces in both the House and Senate had decided to include the "prudent layperson" standard in their respective protection measures.

But we are very disturbed about the way in which the emergency services protections were drafted in the Republican "Patient Protection Act." As a physician, it seems that a little unnecessary surgery was performed on the "prudent layperson" standard to the point where it is barely recognizable as the consumer protection we envisioned.

What is the difference between the real "prudent layperson" standard included in the "Balanced Budget Act" and the Democratic "Patients' Bill of Rights" and the "imposture" that has been included in the GOP "Patient Protection Act"?

The GOP Patient Protection Act would establish a weaker coverage standard for privately insured patients than what exists for Medicare and Medicaid patients.

It gets back to what they are talking about. The name of the legislation—Senator DASCHLE—they take the various code words going down the line. They took the "prudent layperson" definition, and then they altered and changed it. These are the emergency physicians that I am reading from.

The GOP Patient Protection Act establishes a weaker coverage standard for privately insured patients than for the Medicare and Medicaid patients. The Democratic bill will provide the same protections for all patients.

The GOP Patient Protection Act establishes a two-tiered test for coverage of emergency services and guarantees coverage only for a "screening examination."

The Democratic bill would require that health plans cover all services necessary to evaluate and stabilize the patient to anyone who meets the prudent layperson standard—no questions asked!

The GOP Patient Protection Act sets no limits on the amount of cost-sharing the managed care plans would be allowed to charge patients who seek emergency services from a non-network provider.

You get it? They have a prudent layperson. They further define it to mean less in terms of health care protections. And then they include copays. So if they go there, they are going to have to pay up through the nose for it.

Don't you think we ought to be able to discuss that on the floor of the U.S. Senate, to see which way this body wants to go on that particular protection for emergency rooms, for consumers of this country? No. We can't—evidently, no. No. We haven't got time. We haven't got time to be able to ask our Republican friends, Why did you do it this way? Why did you change it? Why did you change it?

Well, I think it is quite clear why they changed it, because the insurance industry wanted them to change it. The GOP Patient Protection Act sets no limits on the cost-sharing.

The Democratic bill would protect patients who reasonably seek emergency services to protect their health from being charged unreasonable copays and deductibles.

We protect the consumer.

The GOP Patient Protection Act sets no guidelines for the coordination of poststabilization care, making it possible for emergency physicians to coordinate and obtain authorization for necessary follow-up care with the managed care plans.

The Democratic bill would require the health plans to adhere to new Federal guidelines that require managed care plans to be available to coordinate poststabilization care, instead of just permitting the managed plan to turn off the phone at 5 o'clock.

Obviously—

And I continue now with her statement:

we are very troubled by the changes to the "prudent layperson" standard in the "Patient Protection Act."

Our assessment is that this legislation—

Now, these are the emergency room physicians. There isn't a family in this country that does not have some concern—they have children or parents; loved ones—about the importance of having an emergency room that is going to look after an emergency, that is going to affect the family. And there isn't a person that is listening to this program, watching it, that has not had to spend time in an emergency room themselves or their loved ones in a family.

It is very important. And what is happening out there with regard to HMOs, in too many instances, is that they are putting the interests of the insurance industry ahead of the emergency needs of the patient. That isn't what I am saying, although it is what the emergency room doctors are saying.

This is their final assessment:

Our assessment is that this legislation—

[1.] Will provide less protection for privately insured patients than for Medicare and Medicaid patients.

[2.] Will lead to more coverage disputes, not less. [Do we hear that—will lead to more coverage disputes, not less.]

[3.] Will create even more barriers, not fewer.

[4.] Will create new loopholes for managed care plans to deny coverage of emergency services.

These are the doctors who are dedicated and committed to providing emergency services to the people. That is their assessment, and we are not going to be permitted to debate and discuss the impact of the Republican bill on the patients of this country as compared to our Patients' Bill of Rights. We are going to be denied that opportunity, Mr. President?

In four years, we have come so far, but we cannot support these provisions in their current form. We will do everything in our power to ensure the "prudent layperson" standard that is enacted will be consistent with the meaningful protections that Congress enacted for Medicare and Medicaid beneficiaries. Hard-working Americans who pay their premiums deserve no less.

Now, Mr. President, I will conclude in just a moment. I want to sum up where I think we are in this whole experience. During recent years, we have seen a very dramatic shift from the indemnity health care provisions to the HMOs. We have seen the ERISA provisions that were developed in the early 1970s which exclude liability protections for American consumers. Those particular provisions were developed to protect pensions—it wasn't really thought about in terms of the application of these provisions of the law in terms of health care plans. If you go back and read the discussion and the debate, it wasn't really considered. It was there to protect pensions, and it has worked reasonably well to protect pensions.

It hasn't worked to protect the patients in these programs. Nonetheless, we have seen the growth of the HMOs. And we have some outstanding health maintenance organizations. We have some of the best in my own State of Massachusetts. The basic concept behind the HMOs was to try to create the financial incentive for keeping people healthier so that the various health organizations would encourage the preventive health care measures, and by

keeping people healthier, on what we call a "capitation" program—that is, that the HMO gets a certain payment for an individual; if they keep them healthier, then the HMO's financial situation improves. That made a good deal of sense.

In the better HMOs it works, and it works effectively. The problem is you have many at the lower end that are reflecting the kinds of abuses we have talked about here today. They have to be corrected. They should be corrected.

Legislation has been introduced, and we have been excluded from the opportunity of having it scheduled. Now we have, finally, the Republican leadership's provisions, which were introduced in the Senate last Friday, and we still have no time that has been set aside.

When you look over the range of different provisions in this legislation and the importance of this, we need to have a reasonable opportunity to debate and discuss these measures. The best we were able to get out of the Republican leadership initially was that, "We are not going to schedule what we don't want to schedule." That is what I heard on the floor of the U.S. Senate about 2 weeks ago. Then we heard that, "We are developing a program and will schedule this when we want to schedule it." Then we see the legislation that has been introduced. Now we are told, "We may or may not get to that in the day or two before the designated recess."

There is not a measure that affects families in this country that is more important than the Patients' Bill of Rights. It deserves full debate and discussion and thoughtful consideration. It deserves the best judgment of all of the Members, and it deserves a bipartisan resolution at the end to try to see that we do something that is meaningful to provide protections for families. What will be unacceptable is some kind of a toothless piece of legislation that picks up the buzzwords but fails to provide the protections for the American people.

I hope we can get about the business of having this debate and having this result. Every day we delay, we fail to protect our fellow citizens. This issue is not one that is getting better; it is one which cries out for action. It cries out for action now. The earlier, the better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. NICKLES. Will the Senator yield?

Mr. SHELBY. I yield to the distinguished Senator from Oklahoma.

HEALTH CARE LEGISLATION

Mr. NICKLES. I appreciate my colleague yielding for a moment. I sat here and waited for awhile for my colleague from Massachusetts to speak, and then the Senator from Delaware decided to speak. I wanted to make a couple of comments concerning the health care legislation.

One, I regret maybe some of the tone of some of the debate that has been made. I am very interested in trying to come up with a reasonable time agreement to take up this legislation. We have offered to do that. We have offered to give a vote on both the Democrat and the Republican proposals. I understand my colleague wants more time. He probably would like to spend a month on it. I heard him say it is the most important legislation we have before the Senate. I think I heard him say the same thing about the tobacco legislation. We spent 4 weeks on tobacco legislation, and we are not going to spend 4 weeks on this. The Senate is scheduled to be in session about 5 additional weeks, so we don't have the luxury of time that maybe we have had in the past.

My colleague from Massachusetts made the comment and said we tried to bring this up 18 months ago. That is not correct. His bill was introduced on March 31. Three days later, he was trying to pass a sense-of-the-Senate resolution, saying we will pass it this year. We have agreed to bring it up this year. We have agreed to give it adequate time for debate. We have not agreed to spend an unlimited amount of time on this.

I want to respond to a couple of the statements that were made concerning the Republican proposal. Much to my chagrin, I had hoped my colleague, and colleagues on the other side, would try to find out what is good and maybe see where we can move forward, but instead he has trashed our proposal. I resent that, or I regret it—I guess regret would be the more proper terminology.

We have 49 cosponsors of this legislation. We had a task force that met for months, 7 months, to formulate positive, constructive health care legislation, legislation that would help alleviate some of the problems in the health care industry, legislation that would help protect those people who don't have protections in health care.

I heard my colleague say their plan only affects 48 million Americans and exempts two-thirds. That is absolutely not correct. The facts are, every single ERISA-covered plan, every single employer-sponsored health plan in America would have an appeal process. It is a different process than our colleagues on the Democrat side have followed, but for a good reason. We don't want to drive up health care costs.

What we want to do is make sure people who are denied health care will have an appeal to where they can get health care—not that they have to go to court to get a health care decision—so they can have an appeal through an outsider who has nothing whatever to do with their case and have it be reviewed immediately or expeditiously if there is a serious health care problem. They can even have an outside appeal. We put in "binding decision" on the outside appeal. The decisions would be binding. The plan would have to pay if someone said, "Wait a minute. We thought we were waiting for coverage and we didn't get it." They would have an internal appeal and an external appeal and that applies to every single employer-sponsored plan in America. We have heard different numbers. It is about 125 million Americans who would be covered under those plans—every single one—unlike my colleagues' plan; I looked at his. I just want to say that it is the right to sue for more. Under the Democrat bill, their idea is that we are going to get more health care by having more suits. We are going to sue people. You can already sue a health care plan to get a covered service. They want to sue for more.

In the Democrat proposal, they have 56 new causes of action where you can sue. It would be an invitation for litigation, to not only sue the health care plan but to sue the employer as well. I have been in the private sector, I have been an employer, a small employer—maybe a little larger; I went from a few employees to 100 employees. If you make employers liable for suits on health care plans, they will drop health care plans very quickly and you will have an increase in the number of uninsured that will be in the millions. You will also have costs. CBO estimated that the Democrat bill would increase health care costs by 4 percent over what they are already estimated to cost, at 5.2 percent. That is a 9.2 percent cost increase if we enact the Democrat bill. That would cause millions of people to lose health insurance. I don't think that is smart.

So I want to just make sure that our colleagues are aware of the fact that we are willing to have a significant, credible debate. We are willing to consider various alternatives. We are not willing to get an unlimited amount of time. Earlier, my colleague had offered his bill on an appropriations bill. I said it didn't belong there. Maybe we should have left it there. We could have offered some substitutes.

One way or another, we are going to take up this issue. It is our intention to take it up prior to the August break. That is the majority leader's call. We understand that we have a lot of appropriations bills to do, and that must be done. I know my colleagues on the Transportation Committee are ready to go to work. I won't delay them much longer. We will have adequate time to debate the pros and cons of this bill.

I heard some other allegations—that they don't do anything. The Senator from Delaware said, "They have all

this lip service. They provide for emergency care, gag clauses, and access, direct access to OB/GYN and pediatricians, but that doesn't do anything." I disagree. We protect the unprotected. We don't have the philosophy that we should preempt States who are, in many cases, doing a better job than the Federal Government. There is a presumption on the Democrat side that the Federal Government can do it better than State government. Let's protect the unprotected, cover the plans that don't have protections often by the State.

My State has 24 mandates. They have a lot of things that aren't in the Democrat plan or Republican plan, and they are doing quite well. They are considering many more. Most States are looking at the Patients' Bill of Rights, and 36 States have already enacted several others, and 45 States already have a gag clause. Maybe some people think Washington, DC, should decide what kind of communication should or should not be made by physicians, and so on.

My point is, I think we have tried to craft a very careful, balanced, good proposal that won't escalate costs, that won't have undue mandates. The Democrat proposal has 359 mandates. Maybe instead of calling it the Kennedy bill, the Patients' Bill of Rights, they should call it the Kennedy bill of mandates, because it is this idea that the Government in Washington, DC, should dictate everything.

So I look forward to the debate. I look forward to resolving this issue and trying to come up with a good, responsible bill that won't drive up health care costs, that won't add layers and layers of bureaucracy and regulation and red tape, that won't really deter quality health care.

Our bill, I might mention, has a lot of things to deal with improving quality health care. I compliment Senator COLLINS, Senator FRIST, Senator JEFFORDS, and others who worked to put a lot of quality provisions in this health care, whether you are dealing with women's health, or dealing with research, trying to get research out to States and rural areas that would really improve quality health care—not a Federal definition that we know best, but trying to really advance technology and get that information to patients, to various areas around the country that would actually improve the quality of health care in America today.

I thank my colleagues who are managing this bill. I hope they will have success in moving this bill forward. I look forward to the debate and, hopefully, a debate next week on the so-called Patients' Bill of Rights.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak for 3 minutes as in morning business.

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

THE ZAAZHOA CASE

Mr. JEFFORDS. Mr. President, I rise today to share some great news and to give thanks to the Members who helped me with respect to this very emotional situation that we have dealt with. I want to share the great news that three young Vermont girls who were abducted to Egypt are now back. I want to thank 56 of my colleagues for their support in this case for signing a letter to urge their return to Vermont. I also want to thank the Egyptian and American Governments for their invaluable assistance.

Last October, anticipating a Vermont court order giving his wife sole custody of their three girls, Michael Zaazhoa took Sarah, Maryam and Leila under falsified passports and fled to Egypt. Lamis Zaazhoa began the frantic search for her girls, ages 3, 5 and 6, which took 9 months, and culminated in a joyful reunion at the U.S. Embassy in Cairo this past Friday.

Lamis listened to the wise counsel of her family and decided to go the long, anxious route of petitioning the Egyptian courts for sole custody of her children under Egyptian law and getting an Egyptian court order for the return of her girls. The Vermont delegation quickly swung into action in support of her efforts, enlisting the help of the U.S. Embassy in Cairo and the Egyptian Embassy in Washington.

After the Egyptian courts ruled squarely in Lamis's favor, I walked around the Senate floor with a letter from Senator LEAHY and me to President Mubarak of Egypt, asking for his support. Fifty-five of my Colleagues signed this letter. I am deeply appreciative of my Colleagues help, which I consider pivotal to the success of our efforts. And I am very grateful to the Egyptian Embassy and Egyptian Government for its help in ensuring that Egyptian law was enforced and the girls were returned to their mother. The staff of the American Embassy was there for us all along, and arranged the swift return to the United States of Lamis and her girls once they were reunited.

I wish I could have invited all of my colleagues to the wonderful meeting Senator LEAHY and I had with these three sweet girls yesterday! Their beautiful smiles and the joy on Lamis's face deeply touched the hearts of all those present. In difficult situations like these, we rely on the good offices of our Government, and the cooperation of our friends in foreign governments. And yesterday we saw with our own eyes the beautiful fruits of those efforts!

This is an unusual result. Many of these cases occur, but very, very few are reconciled the way this was. I thank Jeff Munger of my staff in Vermont, whose sister brought to his attention the plight of the children and spearheaded the results that we got. So, again, I thank all the Members for their helpfulness in getting the three little girls back to Vermont.

I thank the Chair.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. SHELBY. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. 2307, the transportation appropriations bill.

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

The clerk will report.

The bill clerk read as follows:

A bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, in putting together the Fiscal Year 1999 Transportation Appropriations bill, we were faced with the difficulty of trying to adhere to the spending levels in the new highway and transit authorization bill and still provide adequate levels of funding for other transportation priorities. We have done that in this bill, and I think it represents a balanced approach to meeting our nation's transportation needs. I want to thank the Chairman of the Committee on Appropriations Senator STEVENS, for all his assistance and advice as we put this bill together and moved it through sub and full committee consideration.

We have also worked diligently with the senior Senator from New Jersey, Senator LAUTENBERG, the ranking minority member of the subcommittee on transportation appropriations, and with the distinguished ranking member of the Committee on Appropriations, Senator BYRD, to try to accommodate the requests of every Member of the Senate. No one got everything they asked for, but I think as Members look at the details of the bill, they will see that we did our best, with the limited resources we had, to accommodate everyone's request.

I want to outline just a few highlights of the bill, if I may.

The Airport Improvement Program is set at $2.1 billion for 1999, the highest level ever. This funding will expand the capacity of our Nation's airports, reduce delays and congestion, and, most importantly, it will improve aviation safety in America. As the demand for air travel increases, we must ensure that our airports are able to efficiently handle traffic that will come with it.

Highway spending is also at the highest level in history—more than $27 billion. This funding will help States

clear out their backlog of overdue highway construction and improvement projects. With more than 40,000 American lives lost each year on our Nation's highways, we must do everything to make them as safe as possible. Highway spending not only improves safety but also will provide good jobs for thousands of Americans.

I believe we have adequately funded both the Coast Guard and the Federal Aviation Administration operations accounts, and we have provided increased flexibility for the Secretary to manage both operations accounts to meet air traffic control and drug interdiction demands.

I am pleased that we were able to fully appropriate the authorized levels for the National Highway Traffic Safety Administration. That agency's funding in this bill represents an 8 percent increase over last year and will aid in their efforts to conduct airbag research, develop automatic crash avoidance technologies, and increase seatbelt use, and also reduce drunk driving on our highways.

The Federal Transit Administration will receive $5.365 billion, an 11 percent increase from 1998. These funds will be used to build new light rail transit systems, replace dilapidated public buses, and construct intermodal facilities to speed the transfer of people from one transportation mode to another.

Regarding Amtrak, the bill provides an additional $555 million on top of the $1.1 billion Amtrak will receive from the Taxpayer Relief Act that we passed last year.

My concerns about the level of Federal subsidies for Amtrak are well known in this body. Since the railroad was created in 1971, Amtrak has received $21 billion in Federal support. That is an average of $750 million a year. Mr. President, that is a disproportionately high level of subsidy for a railroad that only serves 20 million intercity passengers every year. Mr. President, by way of comparison, 600 million Americans fly every year. This means that more people fly in a 2-week period than ride Amtrak over the course of the year. The bill before you this evening contains a provision requiring Amtrak to print the per-passenger subsidy on each Amtrak ticket sold. According to the GAO, Amtrak loses an average of $47 per passenger. I think the American people have a right to know how their tax dollars are being spent.

Finally, Mr. President, let me comment on the Project Labor agreement provision. At full committee consideration of the transportation appropriations bill, the chairman requested that we postpone the debate on this provision until the floor. I believe that the chairman's position to postpone this debate until the floor made sense. And I know that he has been working to resolve this issue in a fashion that will allow the transportation appropriations bill to move expeditiously through the Senate. I will continue to work with the chairman and with Members on both sides of this issue to see if we can craft—and I believe we will be able to craft—a solution that is workable for everyone involved. The intent of the original language in the bill was to prohibit discrimination against any worker in this country simply because he or she chooses not to join a union.

Mr. President, I am proud of what we have been able to accomplish in this bill. I believe it will benefit all Americans by improving transportation services in this country. I look forward to working with the members of the committee and the Members of the Senate to move this bill through the Senate.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, I am obviously pleased that the Senate has now turned to the consideration of the transportation appropriations bill. It has been some time in coming. And action on the transportation bill has been delayed for several weeks while the committee sought to resolve some of the challenges that arise when there are vital interests needs to be met with too few resources to meet them.

Mr. President, I first ask unanimous consent that Peter Rogoff, a member of my staff, be permitted privileges of the floor during the consideration of this bill.

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

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, it is always interesting, to me anyway, that when we get to something like transportation and we start talking about the numbers and how much we are able to spend on highways and aviation, on buses, and rail, whatever we do, we still fall short on this country's needs for investment in infrastructure.

There isn't a Senator here who doesn't come to Senator SHELBY or me during the time of the negotiations looking for more opportunities to invest in infrastructure. They want to get rid of the potholes, get rid of the obsolete bridges, update our system.

I know I speak for the chairman of the subcommittee, Senator SHELBY, with whom I have the pleasure and opportunity to work—Senator SHELBY and I have known each other for some time. He is a man with specific opinions on things. I could be described as a "pussycat"—I don't think so. But we have our differences out on the table, and we work to resolve them. There is one thing in this relationship, and that is mutual respect. I want to say today that Senator SHELBY has not only exhibited patience but also a genuine interest in resolving issues, getting rid of the problems, and getting on with the task. Between us, I think we have a pretty good piece of legislation.

For me, one of the greatest challenges that we faced in developing this bill was finding the funds for Amtrak. Senator SHELBY, as is his wont, spoke out about his views on Amtrak. But he has respect for others' views—for those people who see Amtrak as an integral part of the transportation system in this country, an essential part of the system.

While he is concerned about the amount of subsidy that Amtrak is getting from the Federal Government, it is also bidding its way towards self-sufficiency. Until we have the proper kind of equipment that attracts riders, that can make the trip—and the trips are made in faster times, particularly in the Northeast section, where in just the few States that Amtrak goes through with probably 100 million people, it is a significant part of the population in the country. Yes, it requires subsidy, but so does aviation.

We go beyond the ticket tax, which is significant. What we are saying to the people who ride in aviation is you pay a tax for this. We don't really say that in similar terms with Amtrak. You pay a heavy tax when you fly. The system is totally built by the taxpayer and local interests when it comes to aviation. If Amtrak didn't operate, I would like to point out that we would need 7,500 new flights a year on 757s to make up for the numbers of people who are carried on Amtrak.

We were able to fashion a compromise which was in this bill reported unanimously by the Appropriations Committee on July 14. It includes $555 million for Amtrak for the coming year, and as the chairman noted, there is over $1 billion worth of funding; some of that in operating expenses; some of that in capital expense, but it is $66 million less than the level requested by the administration.

Now, we are on the verge—1999 is the year—of getting high-speed rail equipment in the Northeast corridor. And for the benefit of those who are listening not familiar with it, the Northeast corridor is that corridor of traffic between Washington here in the South, and Boston on the northern run, with New York and Newark as the intermediate points along the way.

Well, if we can get that ride down—and I think that we can—to less than 2½ hours, I can tell you, Mr. President, I have been out at the airport many times to take a flight that was advertised to be 40 and 45 minutes, and it has taken 3 hours. It is not because the airplane is so slow. It is that it's so crowded we can't get off the ground. And sometimes I find when I land in the Newark area we have to wait 30, 40

minutes to get to a gate. We are straining at the seams. And if anybody rides the highways of America they know there is plenty of congestion. I don't care what State it is, you will find a place in those States where highway congestion is unbearable, the air is foul, and we are consuming far more fuel than we ought to because we are building a further dependence on the countries outside our shores that produce it.

And so this investment in Amtrak is one that is going to be made to get us to be able to take delivery on the high-speed equipment which is due next year, 1999.

I thank Senator STEVENS, the chairman of the committee, and Senator BYRD, the ranking member of the full committee, as well as, again, Senator SHELBY, the chairman of the Subcommittee on Transportation, for helping us to find an acceptable funding level for Amtrak, and I also thank them for their patience throughout the process.

The Transportation Subcommittee faced a real daunting challenge in constructing a bill that kept faith with the promises included in the recently enacted Transportation Equity Act. That is the transportation program for the next half dozen years for the 21st century. It is a beginning into the 21st century, and with our infrastructure investment, as modest as it is, I can't say that it is one of America's proudest achievements because we are woefully underfunded, but it is a good start in the 21st century and I am looking forward to building on that.

The TEA 21, as it is referred to in acronym fashion, law authorized substantial increases in our surface transportation programs, and this appropriations bill includes a historic 15-percent increase for funding for the Federal Highway Administration, and an 11-percent increase in funding for the Federal Transit Administration. Separate from these well-deserved increases in the surface transportation area, the bill seeks to meet, to the best of our ability, the needs of the FAA.

You heard me just reciting the fact that crowding in the air is not an insignificant factor. If you want to fly into the New York area, or you want to fly into the Chicago area, the significant metropolitan hubs across our country, you have to share that space, and if the weather turns foul you wait forever. We could upgrade the system. There are other countries that have systems where takeoffs and landings are done at zero visibility. It is done mechanically. The pilot has to be there, but that airplane can touch down safely when you can't see the ground. I know I have been in a couple of flights like that, and it is always a shock when you don't see something and you feel that hard ground beneath you.

That is what we ought to be doing. We have to invest more in all of our transportation modes and aviation as well. The Coast Guard is one incredible agency. We ask so much of the Coast Guard. We not only have them out doing drug interdiction, which is a very popular part of their agenda, but if one looks at the marine system that we have in our country, the development of boating, fishing, the whole recreational aspect of marine life is there because the Coast Guard manages it. They put out the buoy markers. I know sometimes I get lost out there, so I can tell you that they are there. It is not that they have moved. It is that I haven't been able to find them properly.

It is an incredible system. And on top of that, they do pollution patrol; they do a patrol to try to intercept illegal immigrants who want to get to this great country of ours and are willing to risk their lives to do it, sometimes in tire tubes out in the ocean. The Coast Guard is there to provide interdiction, but also humanitarian service as well. And when it comes to rescues at sea, boy, there is nobody better than the Coast Guard. They know how to do it, and they are called on by everybody on every occasion. We just saw a ship fire, the Carnival Cruise Line ship in Florida. The ones I saw right there on the spot were the Coast Guard. They are always there. They need constant investment. I know one of the complaints in some of the northern areas is they don't have enough icebreaking equipment, for instance. We get it sometimes from the Defense Department.

So, when you put all these needs together, it is not an easy challenge. I say, once again, Chairman SHELBY and his staff, Wally Burnett, Reid Cavnar and Joyce Rose, do a terrific job, as well as the people on my staff, Peter Rogoff and Liz O'Donoghue—I mentioned before Peter Neffenger—and Carole Geagley, for the job the staff has done.

The staff has worked very hard. I don't think it is realized outside that by no means are these 9 to 5 jobs. Yes, they are. I am sorry. They are 9 at night to 5 the next morning. That is the kind of jobs they are. We give them time off to sleep, go home, meet their families, say hello to their newborns, get breakfast—the work requirement is beyond comprehension, in many cases. But it gets done, and I am proud of what we did this year.

Mr. President, as Members are aware, and the chairman brought it up, the bill as reported by the Appropriations Committee contains an extremely controversial rider. It is something regarding Project Labor agreements. The provision effectively wanted to stop labor-management agreements that have served successfully for years to hold down construction costs and improve working conditions. Imagine—on those occasions, which are too few, where management and labor shake hands across the table, no longer could they say, "These are the conditions we are going to be working under. This is what you can expect from us, and this is what you can expect from us; we are going to bridge our differences now, before this job starts. We are going to decide on things like pay scales and work schedules and health care—all of those things. We are going to decide together on the schedule that we want to meet. We want to be proud of this job when it is finished."

The chairman of the Appropriations Committee used a reference. He said in the Alaskan pipeline they had an agreement that saved billions of dollars, because everybody understood exactly what their responsibilities were and there was no room for work stoppages or things of that nature. It is a system that works. Why some people felt it was time to stop it, I don't understand. But I respect the differences that we have here.

The issue was discussed at length during full committee markup of the bill. As Senator SHELBY noted, Chairman STEVENS asked us to defer this until we get to the floor and get this bill out there so Senators can see it and understand what we are doing. We did just that, and the result is we have a compromise that Senator STEVENS sought to develop that would allow the bill to move forward and gain the President's signature.

Senator SHELBY and others involved, Senator KENNEDY from Massachusetts, and I, agreed this was a consensus with which we could live. I am delighted that took place so we did not have to wrangle over it. We want to get this bill in place so when the new year starts, October 1, we are ready to go with the new spending levels and new programs.

Once we have concluded our opening remarks, we are going to adopt the managers' amendment that encompasses a compromise on this issue, so all parties are agreed they will live with it. I thank my colleagues for their efforts in reaching this compromise.

In closing, I want to express my view that the most important funding in this bill is not for any individual project or any individual State. The most important funding in the annual transportation appropriations bill is the taxpayers' dollars that we commit to maintaining safety throughout our national transportation network.

Safety in the skies—we know we are crowded, we know we are busy, and we know there is a terrific strain on the staff who maintain the aviation system, the controllers, those in the towers and those in the service routes along the way. They do a terrific job. One need only look at the accident record, the number of people. Senator SHELBY mentioned there are 600 million travelers a year. Look at that and thank the Lord, look at the accident

record. You will see one of the nearly perfect systems that one could imagine operating in our skies with all that volume.

We want the same thing on our roads. We want to reduce drunk, careless driving. We would like to even reduce road rage. I don't know how we do it. Sometimes we get into rage here, but we should be able to do that.

Safety on our waterways—again, the Coast Guard is there marking out routes. It is just a terrific facility that we have.

So, safety is the No. 1 priority of my agenda. It is the No. 1 priority for the Secretary of Transportation, Secretary Slater, and for the President of the United States. He talks about it a lot. And Senator SHELBY indicated he is interested in safety.

I am hoping one day we will be able to shore up our .08 blood alcohol level bill. We passed a bill that goes part of the way, but we have to go further in order to make it complete. The worst thing that can happen to a family is to lose a youngster, a young person, to an automobile accident when we try so hard to bring them up, to raise them and encourage them, and then have somebody get in a car where someone has been drinking too much and end their life.

We are focused on safety. We are going to do that. I cannot overemphasize the responsibility that every Senator has in ensuring our transportation laws protect the safety of our traveling public to the maximum extent possible. The fate of the traveling public is truly in our hands each and every day. During the up and coming debate we are going to discuss a number of amendments that are critically important to the safety of our constituents.

With that, I yield the floor to my colleague. We are ready to consider amendments and start with the managers' amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, first of all, I thank the distinguished Senator from New Jersey for his kind remarks, because we do work together on a lot of issues, not only in the Appropriations Committee but also we both serve on the Intelligence Committee and spend a lot of time generally behind closed doors. He is an active member of that committee, too.

AMENDMENT NO. 3324

(Purpose: An amendment on the part of the managers)

Mr. SHELBY. 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 Alabama [Mr. SHELBY], for himself and Mr. LAUTENBERG, proposes an amendment numbered 3324.

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

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

The amendment is as follows:

On page 19 of the bill in line 2, strike ": *Provided*, That $3,000,000 shall be transferred to the Appalachian Regional Commission".

On page 26 of the bill, line 15, insert the following before the period: "*Provided further*, That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49 United States Code section 22301".

On page 20 of the bill, in line 17, after the colon, insert: "*Provided further*, That within the $20,000,000 made available for refuge roads in fiscal year 1999 by section 204 of title 23, United States Code, as amended, $700,000 shall be made available to the U.S. Army Corps of Engineers to determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska and $1,500,000 shall be made available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana:".

On page 28 of the bill, amend the figure in line 5 to read "7,500,000".

On page 44 of the bill, insert at the beginning of line 1 the following: "New York City NY Midtown west ferry terminal".

On page 51 of the bill, insert after line 19 the following: "Whittier, AK intermodal facility and pedestrian overpass".

On pages 86 and 87 of the bill, strike all of section 336 (lines 16–24 and lines 1–10).

On page 88 of the bill, in line 18, after the semicolon insert the following:

(3) in subsection (d), by inserting "(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))" after "subsection (b)(3)(B)(i) of this section"; and.

And on page 88 of the bill, in line 19, amend the "(3)" subsection number to read "(4)".

On page 90 of the bill, in line 1, after the semicolon insert the following: "$3,500,000 is provided for the Providence-Boston commuter rail project;".

On page 92 of the bill, after line 25, insert the following:

SEC. 351. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking "Pirate Cove" and inserting "Pirates' Cove and 4-lane connector to Mississippi Highway 468".

On page 78 of the bill, strike lines 8–15, and insert the following:

SEC. 322. None of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or recipients of financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

Mr. SHELBY. Mr. President, this amendment has been cleared on both sides of the aisle. I think it makes sense and will allow us to move forward with the bill.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no objection, the amendment is agreed to.

The amendment (No. 3324) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SHELBY. 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. SHELBY. 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. SHELBY. Mr. President, I would just like to tell my colleagues in the Senate, some of them are here on the floor and in their offices, Senator LAUTENBERG and I are ready to move this bill toward third reading. We haven't heard from anyone. We will give a few more minutes in case somebody wants to get in, or offer an amendment to this bill, but we believe this is a well put together bill, as I said earlier. Both sides have put a lot of work into it. We should not keep Senators here all evening. We will move as soon as we can.

If we don't hear from somebody on the floor in just a few minutes, it is my idea, if Senator LAUTENBERG concurs at that time, to move to third reading.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. If I might, I knew we constructed a good bill. I didn't realize it was this good. But the fact of the matter is I guess we covered everybody's requests fully. But we should wait to see if any of our colleagues want to come down to the floor and commend us for it.

Otherwise, I think we are seriously ready to go. I am feeling a little lightheaded because we haven't heard a lot of criticism. But the bill is here. If there are people who want to amend it in any way, let them come down now or forever hold their peace, or something.

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

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

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a fellow in Senator BINGAMAN's office, Mr. Dan Alpert, be given floor privileges during the pendency of the transportation appropriations bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

Mr. WELLSTONE. Thank you.

OCCUPATIONAL AIR QUALITY TESTS IN COAL MINES

Mr. WELLSTONE. Mr. President, I rise today to call to the attention of colleagues a disturbing set of circumstances and facts which I believe merit investigation and probably legislative action on the part of the Senate. I also believe that the facts I am about to discuss warrant more attention than they have received so far from the Justice Department.

There is evidence of significant violation of Federal law leading to great harm. I hope that in addition to the Congress responding appropriately, the Justice Department might look further into this matter.

I am referring to what appears to be a record of widespread systematic cheating on occupational air quality tests by operators of many of our Nation's coal mines. This alleged cheating, of which there appears to be nearly incontrovertible evidence, apparently has led to much unnecessary suffering in thousands of American families. It likely also has led to the unnecessary death from black lung disease of thousands of American coal miners.

Unfortunately, I am not referring to conditions that existed early in this century, or even conditions of the 1950s or 1960s. I'm talking about circumstances of the 1970s, 1980s and 1990s. I'm talking about allegations related to existing conditions and practices in American coal mines today.

I ask unanimous consent, Mr. President, to have printed in the RECORD a series of articles that appeared in April of this year in the Louisville Courier-Journal.

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

FROM THE EDITOR

For years, a quiet but deadly tragedy has been played out in the nation's underground coal mines.

Coal mine operators have known about it.

The federal government has known about it.

And coal miners themselves have known about it.

The tragedy is that in 1998 black-lung disease still exists and hundreds of miners nationwide die of the disease each year because of cheating on air-quality tests.

Doctors have known for a century that coal dust causes black lung, which can be prevented through underground dust-control measures.

But 30 years after Congress placed strict limits on airborne dust and ordered mine operators to take periodic tests inside their mines, almost 1,500 miners die of black lung every year.

The Courier-Journal set out to find out why.

The answers were shocking.

In a year-long investigation that involved interviews with 255 working and retired miners and computer analysis of more than 7 million government records, The Courier-Journal found that, among other things:

Miners continue to breathe dangerous levels of coal dust because cheating on dust tests is rampant.

Most coal mines send the government air samples with so little dust that experts say they must be fraudulent.

Many mine operators—non-union mine operators in particular—don't comply because strict adherence to safety regulations is time-consuming, costly and cuts into profits.

The federal agency responsible for protecting miners ignored overwhelming evidence of cheating.

Nearly every miner interviewed said that cheating on dust tests is common and that many miners help operators falsify tests to protect their jobs.

And almost no coal miners qualify for black-lung benefits under Kentucky's new workers' compensation law.

Since publication of the series, Kentucky's attorney general has asked U.S. Attorney General Janet Reno to investigate why mine-safety officials have ignored evidence of cheating. And state lawmakers have called for a special session to adopt new legislation on workers' compensation.

This reprint includes the entire five-day series, supporting editorials, followups and a guest column by the top mine-safety official.

We think this piece of work represents outstanding public service journalism in the finest tradition of The Courier-Journal.

Mr. WELLSTONE. That is the newspaper of Louisville, KY.

This remarkable series of five articles, principally by a reporter named Gardiner Harris, is titled "Dust, Deception and Death." The series documents an apparent pattern of falsification of coal dust sampling tests by coal mine operators and it details the consequences of that dishonesty: unnecessary suffering and early death for American coal miners.

It is an extraordinary report. I do not believe it has received enough attention, although hearings have been taking place at the state level in Kentucky to look into the charges.

The paper conducted a year-long investigation. Hundreds of current and former miners were interviewed. More than 7 million government records were examined. Based on that research, the Courier-Journal's reporters concluded that cheating on air-quality tests in coal mines has contributed to great suffering and to a large number of deaths from black lung disease among American coal miners. Their reporting reveals that the Federal Government, at least until very recently, largely ignored readily observable indications of that cheating.

I do not draw absolute conclusions at this time from what is reported in the Courier-Journal. But I can say that what is reported in this series is consistent with what I saw and heard when I visited with miners in Eastern Kentucky a year ago. I was told then that cheating goes on in the dust sampling program in American coal mines. And I heard from sick and dying miners and their families about the connection between coal-mine conditions and black lung disease—especially in non-union mines.

We in the Federal Government have a responsibility to these workers and their families. At the end of my statement, I will make some suggestions regarding actions I believe we should take in the Senate. And I hope that colleagues, as they become more aware of this situation, might add to those suggestions and help determine the most appropriate response to what I believe is a national shame.

The initial shame is that the suffering and death of thousands of Americans appears to be the direct result of systematic cheating on a government-monitored health-protection program. The deeper shame is that we in the Federal Government have had the opportunity to know it, yet so far we haven't done very much about it. Dedicated people in the appropriate Federal agency, the Mine Safety and Health Administration (MSHA), are beginning to address this problem. J. Davitt McAteer, who is the Assistant Secretary for MSHA, has begun during recent years to take a number of steps, and he has called for further steps beyond those he has taken. But we still are not doing enough.

Before I cite some details from the series, I would like to read a portion of the newspaper's editorial on this subject into the RECORD. This Louisville Courier-Journal editorial, printed on Sunday, April 19, is headlined, "Death and Denial." It begins as follows:

Coal is an outlaw industry. It is now, and it always has been. Coal is the closest thing to brute, unrepentant late 19th Century capitalism that we have left in American life. If you don't believe that, just consider the fact that ranks of miners choke to death every year because coal operators routinely cheat. They cheat on air-quality tests which could save lives. When they do that, they cheat workers of the years they would be able to spend with families and friends but for an early death from black lung. And this grotesque disease continues as the principal killer of coal miners, just as it has been for a half-century.

That is not the conclusion of some outside group of hostile critics of the coal industry. It is the editorial position of a major newspaper in the state of Kentucky, where that industry remains important to the economy. Let me recite the conclusion of that same editorial: "One-third of all the nation's underground mines get cited for excessive dust. And those are just the operations that are caught in the flawed,

sporadic dust tests. Miners are more than exhausted with this continuing outrage. They're dying."

Mr. President, every article in this series warrants reading in its entirety. There are some sad and shocking quotes from former foremen in the mines, as well as from miners themselves about their own roles in test falsification. There are heartbreaking profiles that illustrate the human consequences of this reality. Men who are suffocating to death, whose lungs are destroyed, who cannot even crawl up two steps at their home without stopping and gasping for breath. I hope Senators will read the story of Leslie Blevins, 45-year old former coal miner who is dying of silicosis, a form of black lung. I hope Senators will read the story of Terry Howard and his family. Terry died in 1995 of black lung disease. He was 45.

Let me try to summarize some of the series' important findings.

The first and most important conclusion of the series is that coal miners today continue to breathe hazardous amounts of coal dust because falsification of dust sampling is still widespread. In 1972, strict dust limits in coal mines went into effect. That was a result of the 1969 Federal Coal Mine Health and Safety Act. Today, under that Act, every two months, operators of underground coal mines have to test the air in the mines for dust. They use air pump machines attached to certain of the miners' belts to collect air samples. Then government laboratories weigh the amount of dust collected in those machines' plastic cassettes. Also, in addition to weighing the dust cassettes once they have been turned in, Federal government supervisors actually oversee the company-conducted testing on one occasion per year.

How is the Federal dust-sampling program working? Not very well. In fact, the dust-sampling program, crucial as it is, today is a big part of the problem. Numerous miners, former mine owners and managers told the Courier-Journal that the sampling is routinely falsified. "Most of the time, we just turn them off," one miner said of the machines. Many miners described how the pumps often were hung where the air was clear of dust, or placed in lunch buckets. Some are run outside the mines or not at all.

According to the newspaper's reporting, in 1997, at about half the nation's underground coal mines, at least 15 percent of the air samples taken were almost completely dust-free. It is virtually impossible for those tests to have been accurate, according to experts. Assistant Secretary McAteer, who I believe is an honorable man and is moving in the right direction in addressing the problem, told the paper that these samples are "inaccurate," "unfathomable," and "statistically impossible." In other words, Assistant Secretary McAteer was saying that those results were not accurate. They could not have been accurate. They indicated cheating. That was in 1997.

Cheating is reprehensible, of course. But what matters even more is the reason for the cheating. The paper's reporting provides compelling evidence that this widespread cheating is for the purpose of covering up the existence of severely hazardous conditions—dusty conditions which exceed federally allowable levels and which are still causing black lung disease today. How can that be, one might ask? We put the law in place. We have an agency devoted to enforcing it. Surely the mine operating companies are not interested in endangering their workers. And yet they do.

It appears from the evidence that mine operators don't comply with the Federal dust-sampling program mainly because it would cost them time and money to do so. It is a sad and maddening observation, but it appears to be true. Furthermore, it apparently also is the case that the coal mine operating companies do not comply with the Federal dust sampling program today because up to this point they have had little to fear from the Federal Government when they cheat. Even when convictions have been obtained in cases of falsification of dust tests, penalties seem to have been light.

So far, the Federal Government has not been up to the job of protecting miners' health. MSHA appears over a period of years to have largely ignored readily available evidence that cheating was occurring. They are not ignoring it now, although I believe we need to make sure they are doing everything that is possible to do. Penalties for violations, as well as investigations and prosecutions, have been a largely ineffective deterrent. One-third of the mines are cited for dust-level violations, but the fines are generally small. For years average fines were about $100, and even now the average fine is just a few hundred dollars. Those are for the violations which are caught—instances where the measurable dust exceeded allowable levels. The kind of cheating which is documented in the Louisville series, which is a separate issue, has gone largely unpunished because it has gone largely uncaught. Furthermore, even after miners have contracted one or more of the diseases which are known collectively as black lung disease, few are able to qualify for government benefits intended to relieve their plight.

The most important information in this series of articles is not only that American miners continue to suffer and die from black lung disease today. Many Senators are aware that, whereas we pledged as a nation to eliminate black lung disease 28 years ago, we still have not accomplished that goal. The Federal Government pays approximately $1 billion annually for programs directly related to black lung diseases. States pay worker's compensation health benefits to miners with black lung disease. So we know that thousands of Americans suffer from black lung disease. The important information in this series, however, which would have been new and surprising to me had I not visited with coal miners in Eastern Kentucky last year, is information which I think should shock Members of the Senate. That information is that it appears that the cheating on air-quality testing by coal mine operators, the falsification of coal dust sampling tests, continues to go on today on a widespread scale. That—if true, and it appears to be—is what we must acknowledge is a national disgrace.

What does this mean? It means that the cause of future suffering and dying is going on, unabated, in today's coal mines. Right now, today. We can talk about responsibility and accountability for dishonesty in the past, which has led to today's suffering. We should. We should investigate it thoroughly, and if federal laws have been broken, then we should prosecute. But if false sampling continues today, and if we allow it to go on, then we in the Senate are failing in our responsibility to protect thousands of American coal miners from serious health hazards while they are on the job. We literally would be encouraging through our inaction the continued exposure of miners to conditions and practices that we have every indication will condemn thousands of them to suffering and early death. We are responsible. We cannot allow coal operators to cause avoidable suffering and death. I say avoidable because suffering and death from black lung disease is avoidable. Coal can be mined profitably without subjecting miners to dirty conditions that will give them black lung disease.

Mr. President, we may not solve this problem during the remainder of this Congress. It will probably not be a simple matter, and we have only a few remaining legislative weeks. It cannot be solved overnight, even though every day that cheating occurs American miners are exposed to deadly levels of black-lung-causing coal dust. Nonetheless, we can do some things immediately. We should.

We should hold at least an initial hearing on the subject of the effectiveness, or the lack of effectiveness, of current Federal measures to eliminate black lung disease. Such a hearing should include testimony regarding the voluminous evidence presented in the Louisville Courier-Journal series indicating widespread cheating on dust sampling tests. It might take more than one hearing to get to the bottom of the problem, not to mention the best solutions to it. But there should be a hearing, and I have directed a request for such a hearing to the Chairman of

the Labor Subcommittee on Public Health and Safety, Senator FRIST, as well as to that Subcommittee's Ranking Member, Senator KENNEDY. We need to call attention to the issue, and we need to send a signal to American miners and their families that we will meet our responsibility to learn the truth and protect their health and safety.

Second, we need to ensure that MSHA has sufficient resources to carry out more of their own dust sampling, as well as more monitoring of tests conducted by the coal mine operators. I hope when we consider the Labor-HHS Appropriations bill that we will provide adequate funding to MSHA to do more testing. The companies have shown that they will not carry out accurate tests. At the same time, I do not believe that we should simply increase our own Federal spending and testing, and meanwhile take the companies off the hook. The companies should continue to test, as well, and they must be held thoroughly accountable for their results. A more rigorous testing and monitoring program by MSHA would both improve the reliability of the test results, and it would also help us identify more of the individuals and companies that are cheating on the tests and endangering the health of miners.

MSHA already has increased its spot-inspections of mines that have turned in tests with suspiciously low dust levels. The agency should go further, and they should have the resources to ensure they are able to go further. I believe Federal enforcement agencies should consider whether increased criminal and civil prosecution is warranted for what appears to be the systematic circumvention of the Mine Safety Act. By enforcement agencies I am referring to MSHA and the Department of Justice.

The number of criminal prosecutions has been low if the claims asserted in the Louisville newspaper series are correct. Between 1980 and early 1997, there were only 96 cases in which criminal charges were successfully brought by the Federal government for violations in the area of coal mine safety and health. That is 96 cases over a 16 year period, or about six a year. It is my understanding that very few, if any, even of that small number of successful prosecutions were for the kind of cheating documented in the newspaper series. If cheating on dust sampling, which endangers people's lives, is as widespread as has been alleged, then I believe current Justice Department prosecution has been less than it should be. I do not know if the problem has been at MSHA, or if the problem has been at the Department of Justice. It may be difficult to prove this cheating. It may be difficult to get miners to testify. But if what the series portrays is true, then we are simply not doing a good job of deterring these illegal practices—practices which are causing illness and death.

Finally, the Secretary of Labor last year proposed new rules governing implementation of the Black Lung Benefits Act—rules which to my knowledge still have not taken effect. This set of proposed revisions to the Black Lung Benefits Act is sound, justified and needed. It should be implemented. Only about 7.5 percent of Black Lung claims have been granted since the early 1980s, with nearly one-third of claims tied up in lengthy hearing and appeals processes. Litigation consumes almost half of the Black Lung Trust Fund's administrative expenses. The Department of Labor's new rules were published in the Federal Register in January of last year, and they should be put into effect.

Mr. President, I will return to the floor to speak further about this issue before the year is over. I hope we can conduct a hearing in the Labor Committee. I hope we will provide adequate appropriations for the Mines Safety and Health Administration. And I hope we will do right for the safety and health of American miners. I intend to do all I can as a United States Senator to see that we do so. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1999

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, we have notified all Members that we would like to complete action on the transportation appropriations bill. I believe our managers are ready to move in that direction.

We have a list of amendments now that have been identified.

I ask unanimous consent that the following amendments be the only first-degree amendments in order to the pending transportation bill, and subject to relevant second-degree amendments:

Managers' amendments; Senator LOTT, three relevant amendments; Senator SHELBY, three relevant amendments; Senator FRIST, regarding cemeteries; Senator ABRAHAM, regarding name change, ITS; Senator SPECTER, regarding bond issue; Senator DEWINE, regarding Coast Guard; Senator MCCONNELL, regarding expedited review; Senator MCCAIN, regarding Amtrak bookkeeping; Senator LEAHY, regarding helicopters; Senator BYRD, two relevant amendments; Senator LEVIN, regarding commuter rail; Senator BUMPERS, relevant; Senator LAUTENBERG, relevant in three instances; Senator DASCHLE, three relevant amendments; Senator KERRY, one amendment on Amtrak; Senator FEINGOLD, relevant amendment; Senator JOHNSON, two relevant amendments; and Senator DURBIN, regarding smoking on international flights.

Mr. LAUTENBERG. And Gramm on drugs.

Mr. LOTT. And one last, Senator GRAMM possibly, one amendment regarding Coast Guard.

Mr. President, we deleted the Feingold relevant.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, while we have leadership on the floor, we have heard the list. That is now confined. I think we ought to get on with the business of getting it done. We could wrap this bill up in short order. There is a full agenda. The majority leader holds out a plum at the end of the ladder. The plum swings a week from Friday. This helps reach that goal.

I ask my colleagues if they want to get out of here on Friday—I know most of them would like to stay, but you will have to put up with us in getting out early.

Mr. LOTT. I thank the managers of this legislation. Senators SHELBY and LAUTENBERG are on the verge of setting a very commendable record. I ask that they quickly go through this list of amendments and dispose of them and, as soon as possible, identify any needed votes, get a time agreement on those votes, and get it done as quickly as possible. It would help us be prepared to move on to other appropriations bills and be able to get out of here as scheduled next Friday.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. I know the hour is beginning to get late and Members would like to know what they can expect tonight. We do have a list of amendments that the managers are working on right now. I believe most of those are going to be resolved without the necessity of extended debate, or even a vote.

We should know in another 15 minutes or so exactly what that would be. I hope there won't be more than one or two amendments that require some time.

Our intent would be to do those amendments that are necessary and final passage, and then Senator DASCHLE and I would like to go to the District of Columbia appropriations bill. Senator COATS and Senator LIEBERMAN have an amendment that they are prepared to debate tonight, discuss tonight, and we hope to have all debate on that and other amendments, but the vote on the amendments and final passage we would propose would be done then Monday night at 5 o'clock in order to accommodate one of the managers.

Tomorrow, while we will have a vote or two early in the morning, we will go to the credit union bill early in the morning. There are not expected to be any recorded votes on the credit union bill in the morning.

So in summation, if we could get cooperation on the transportation bill, we could wrap that up here relatively shortly and that would be the final vote tonight, if the Members would cooperate with us.

Senator DASCHLE has been working to get this amendment list identified. He agrees that this would be a good approach. The Members would have a decent night tonight, and we would be able to wrap up early in the morning and then go to the credit union bill.

I ask Senator DASCHLE if that is his thinking on this process at this time.

Mr. DASCHLE. Mr. President, I thank the Senators on both sides for the cooperation that they have given on transportation, as well as on the District of Columbia. I think we can accommodate Senators' schedules and the need to pass these two bills in an appropriate time by taking the actions the majority leader has outlined.

So I think this is a plan that will still require some cooperation and support on both sides of the aisle, but I think we can do it. I think it is the best way with which to accommodate schedules as well as the need to address these issues soon. So I certainly commend the majority leader for the recommendations and the proposal, and I hope we can complete our work.

Mr. LOTT. I thank the Senator. I thank the Chair.

I yield the floor. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. 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. SHELBY. Mr. President, we are working together, Senator LAUTENBERG and I, and our staffs. We are close to resolving a number of amendments here, but there are some amendments that will require votes. I just ask the sponsors to come on down to the floor because we are probably going to have to have some votes on them: The McConnell amendment regarding expedited review, the McCain amendment regarding Amtrak bookkeeping, the Leahy amendment regarding helicopters, the Kerry amendment regarding Amtrak, and the Durbin amendment, smoking on international flights.

It is just a few minutes before 7. Senator LAUTENBERG and I are ready to move. If Members who are sponsoring those amendments would come on down and help us, I think it would expedite the bill tonight.

Mr. LAUTENBERG. Mr. President, I understand that the majority leader, the leadership has agreed we are going to finish this bill tonight?

Mr. SHELBY. That is right.

Mr. LAUTENBERG. It becomes a matter of Members' choice; you either finish it late or you finish it early. I am not dismissing the importance of anybody's amendment, but now is the time to do it. If it is not important enough to get over here and do it, I think we will try to expedite things, if the majority leader and minority leader agree, to get to a third reading. We have a couple of things we can do. We should do them. We are now looking at the possibility of clearing some.

So until then, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3326

(Purpose: To provide for expedited review to ensure constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century)

Mr. MCCONNELL. 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 Kentucky [Mr. MCCONNELL] proposes an amendment numbered 3326.

Mr. MCCONNELL. Mr. President, I ask that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 92, after line 25, add the following:

SEC. 3__. JUDICIAL REVIEW OF CONSTITUTIONAL CLAIMS.

(a) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) APPEAL TO SUPREME COURT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

(2) DEADLINES FOR APPEAL.—

(A) NOTICE OF APPEAL.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) JURISDICTIONAL STATEMENT.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(3) STAYS.—No stay of an order described in paragraph (1) shall be issued by a single Justice of the Supreme Court.

(c) APPLICABILITY.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1998, but before June 10, 1999.

Mr. MCCONNELL. Mr. President, the amendment I have sent to the desk simply says that the courts should tell us once and for all whether the DBE Program in the new ISTEA law is constitutional.

The new ISTEA law, now referred to as the Transportation Equity Act for the 21st Century, or TEA 21 for short, contains the much debated and long discussed DBE Program.

As every Senator knows, and as the Supreme Court has made clear, this Government-mandated program requires States and private contractors to treat persons differently based on race. The DBE Program, at a minimum, grants benefits and presumptions to some persons based on race and ethnicity but denies the same benefits and presumptions to others based on race and ethnicity.

Now, some say that the preferences are vast and pervasive, while others say preferences are only slight and incremental. Some say that preferences are unfair. Others say that any burdens placed on persons of the wrong race are far outweighed by the benefits for the citizens of the "officially preferred" race.

Mr. President, my views on this issue are well known and well documented in the CONGRESSIONAL RECORD. But the policy debate over TEA 21 and the DBE Program is over for now. We have moved beyond that policy debate for the moment. The only thing that the Senate can do today is to ensure the constitutionality of the DBE Program mandated in TEA 21. That is precisely what my amendment does.

Mr. President, when the topic is racial preferences, it is rare that both parties can find any agreement. But I think today is that rare moment. I

think there are several areas of agreement today that should lead to unanimous approval of my amendment.

First, I think we all agree that the Supreme Court has acknowledged that racial preference programs subject persons to unequal treatment under the law.

In landmark Supreme Court cases, like Adarand v. Pena, and City of Richmond v. Croson, the Court made it clear that programs doling out different presumptions, benefits, and burdens based on race, in fact, subject Americans to unequal treatment under the law.

In the words of the Supreme Court:

> Whenever the government treats any person unequally because of his or her race, that person has suffered an injury that falls squarely within the language and the spirit of the Constitution's guarantee of equal protection.

Moreover, the Court explained:

> We deal here with a classification based upon the race of the participants, which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications "constitutionally suspect," and subject to the "most rigid scrutiny," and "in most circumstances irrelevant" to any constitutionally acceptable legislative purpose.

So, Mr. President, out of the mouth of the highest court in the land we hear our first undisputed fact: Programs like the DBE Program subject Americans to unequal treatment under the law.

Our second undisputed fact is that the Supreme Court will only tolerate such unequal treatment if the program can survive the test of strict scrutiny. That is, is the program, first, narrowly tailored; second, to remedy past discrimination?

Let me again quote the Supreme Court in Adarand. The Court said:

> We hold today that all racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny.

This leads me to the third undisputed fact: Strict scrutiny is an extremely high constitutional hurdle. The administration has conceded the height and depth of the constitutional challenge following Adarand. It has spent a considerable amount of resources over the last 3 years trying to respond to Adarand.

Let me count the ways. First, the administration was forced to launch a governmentwide review of all racial preference programs; second, the President even promised to "mend" those programs that were broken; third, the Justice Department and the Commerce Department joined forces to embark upon an unprecedented national benchmark survey to help figure out whether various racial preference programs could survive the strict scrutiny test after the Adarand case; and finally, several media reports have indicated that the President has been forced to make good on the part of his promise, and that he has attempted to end or curtail several programs.

Mr. President, I think it is clear to all of us that strict scrutiny is an extremely high constitutional hurdle. Let me quote our colleague, Senator BYRD, on this point. My typically astute and always distinguished colleague from West Virginia explained in the CONGRESSIONAL RECORD that the Supreme Court's decision in Adarand "makes it exceedingly difficult for any affirmative action program to pass constitutional muster." And as the Senate's unofficial historian, Senator BYRD dutifully noted that "the last time the Supreme Court upheld a statute based on a racial or national origin classification under the strict scrutiny test was in 1944."

Undisputed fact No. 4: Upon remand, the district court in Adarand followed the Supreme Court's lead and found that the DBE Program could not meet the test of strict scrutiny. Let me read the relevant portion of the district court's opinion and order:

> It is ordered that section 1003(b) of ISTEA, [that is, the Disadvantaged Business Enterprise Program] and . . . the regulations promulgated thereunder . . . are unconstitutional.

In fact, the district court, like many of us in the Senate, expressly questioned whether any race-based statute could be upheld as constitutional.

The Federal judge concluded, "I find it difficult to envision a race-based classification that is narrowly tailored."

The district court's ruling was not exactly a surprise to many of the Nation's constitutional scholars. As the Congressional Research Service has explained, the district court's decision in Adarand "largely conforms to a pattern of Federal rulings which have invalidated State and local government programs to promote minority contracting in the following places: Richmond, San Francisco, San Diego, Dade County, Florida, Atlanta, New Orleans, Columbus, [the State of] Louisiana, and [the State of] Michigan, among others. . . ."

So let me repeat undisputed fact No. 4. The DBE Program was declared unconstitutional by the Federal court in Colorado.

Undisputed fact No. 5: The attempt to respond to Adarand did not involve any statutory reform whatsoever. The administration's reform of the law came in the form of a maze of complex and lengthy new regulations to try to fix the ISTEA program.

Undisputed fact No. 6: Members of both parties expressed concern about the constitutionality of the program, and many of those who voted to support it relied upon the administration's promises and proposed regulations. I am sure that my colleagues will remember that in March of this year, 1998, a divided Senate spent several hours over the course of 2 days debating whether a "mended" transportation program that continues to treat persons differently based on race would now be upheld as constitutional. Ultimately, 58 Senators took the administration at its word and reauthorized the program, but with a very watchful eye.

I think that my good friend from New Mexico summed up the feeling of those Senators who supported the new DBE Program, but had the following admonition. Senator DOMENICI said:

> I say to the administration very clearly right now: You have now put the signature of the Attorney General of the United States and the Secretary of [Transportation] on the answer to . . . seven questions [about the constitutionality of this program]. And this Senator [Senator DOMENICI, referring to himself] and I think a number of other Senators, is going to be voting to keep the provisions in the bill based on these kinds of assurances. . . . If, in fact, it comes out in a few months that the regulations are not being interpreted in a way suggested here, then I assure you that we will change them. . . . This better come as a very, very, serious challenge to the administration as they finally implement this program.

This candor and concern was also expressed by other Members on both sides of the aisle. Let me share an insightful colloquy pointing out the constitutional concerns. This colloquy involved the distinguished Environment and Public Works committee chairman, Senator CHAFEE; the ranking member, Senator BAUCUS; the chairman of the Subcommittee on Transportation and Infrastructure, Senator WARNER; and Senators DOMENICI and DURBIN.

Let me read those statements from the CONGRESSIONAL RECORD of March 5 of this year.

Senator DURBIN said:

> I believe the DBE program must be implemented in a manner that is constitutional. I believe that it is critical to the integrity of the program, and to the Senate's support of that program. Therefore, I would like to ask the chairman and ranking member—whose committee has oversight of the DBE program—is it their intention to press the Department to ensure that the new regulations pass constitutional muster?

That was a question being asked by the Senator from Illinois, Senator DURBIN.

Senator CHAFEE, the chairman of the committee responding:

> Yes, it is. We have made it clear to the Secretary that while one can never predict with 100 percent certainty what language may pass constitutional muster, the Committee expects the Secretary and his legal staff to do their utmost to make sure that the new regulations closely follow the guidance set forth by the Court in Adarand.

Senator BAUCUS, the ranking minority member of the committee says:

> I concur. It is the committee's intention that this program be carried out in a manner

that is consistent with the Constitution. We expect no less. Secretary Slater is aware of, and I am assured agrees with, our views on this matter.

Senator WARNER. As chair of the subcommittee that sponsored this bill, I have a particular interest in this matter and want to assure the Senator that adherence to Adarand is our intent.

Senator DOMENICI. I appreciate the Senator's confirmation on this point. Let me ask further: Will the committee continue to be in touch with Department officials as the regulations are ready for release? And will the committee scrutinize the new regulations to ensure that the Department did in fact follow the Court's guidance under Adarand?

Senator CHAFEE. Yes, we will.

Senator BAUCUS. I can assure the Senator, and the Senate, that we will indeed.

Senator WARNER. We certainly intend to.

Senator DOMENICI. I am pleased to hear it, and I want to thank the Senators for taking the time to respond to my concerns.

Mr. President, I could stand here on the floor and read statement after statement made by Members of both parties during the ISTEA debate in March of this year that spell out the Senate's serious constitutional concerns about the DBE Program. But I think it is abundantly clear that every Member of the Senate understands the constitutional guarantees and obstacles that stand in the way of a Federal highway program that treats Americans differently based on the immutable trait of race.

Let me say that I wholeheartedly agree with and appreciate the constitutional concerns set forth by Senators CHAFEE, BAUCUS, WARNER, DURBIN, and DOMENICI. We must ensure that the new DBE Program is constitutional.

My amendment is perfectly consistent with these constitutional concerns, and I hope all Senators will fully support my amendment.

Undisputed fact No. 7: The proposed regulations were not final prior to our vote back in March on the DBE Program. In fact, the proposed regulations are still not final, even though the CONGRESSIONAL RECORD is filled with statements promising that the new DBE regs would be final in April or May of this year.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

So as the statements that I read earlier from Senators CHAFEE, BAUCUS, and others made clear, we do not know for sure whether the regulations make the DBE Program more constitutional or less constitutional. We do not know for sure whether the proposed regulations will help or hurt, whether the regs alter the statute to allow the program to pass the stringent test of strict scrutiny, or whether the Federal courts will follow the district court in Adarand and continue to strike down the program as unconstitutional.

Mr. President, undisputed fact No. 8: The Senate should take its oath to uphold the Constitution seriously. Mr. President, let me say that all of us, when we come into the Senate, solemnly swear that we will support and defend the Constitution of the United States. I think we can all agree that this is a constitutional oath that should be taken seriously. In fact, for a good portion of our history, the Congress mandated an expedited Supreme Court review of any and all constitutional questions.

In more recent years, the Congress has focused the expedited review approach on those important laws that are surrounded by legitimate questions of constitutional validity. A quick search by the Congressional Research Service has documented several recent laws and bills that have included expedited Supreme Court review provisions. I think my colleagues will remember each of these. Let me name just a few: the Line-Item Veto Act; the Communications Decency Act; the census sampling in last year's Commerce-Justice-State appropriations bill; the District of Columbia Schools Opportunity Scholarships Act; and the Gramm-Rudman-Hollings Act. All of those rather well-known measures had an expedited review provision. These are only a few of the bills that have included expedited review provisions. These were generally supported and passed in both Houses of Congress for the simple reason that there were legitimate questions of constitutionality surrounding key provisions of the bills.

Mr. President, this leads me to undisputed fact No. 9: I think we can all agree that, at a minimum, there are legitimate questions of constitutional validity regarding the DBE Program. Both the Senate and the House acknowledged these questions when we had extended debate and a divided vote back in March on whether the program was constitutional.

Moreover, the TEA 21 law is direct evidence that both the Senate and the House feel that there are legitimate constitutional questions surrounding the DBE Program. Specifically, TEA 21 contains a provision that prohibits the Department of Transportation from cutting off Federal transportation funds whenever a State discontinues its federally mandated DBE Program in compliance with a court order striking down the program as unconstitutional. So, Mr. President, the very law we passed makes it perfectly clear that there are valid questions of constitutionality about the DBE Program.

The courts have also made it clear that the DBE Program raises genuine questions of constitutionality. Case law is replete with courts striking down programs that mandate different rules and different treatment for citizens of different races. The Congressional Research Service, as I noted earlier, has found that the recent Adarand decision by the district court conforms to a pattern of Federal rulings striking down racial preference programs across the country. I have here a long list of cases in the last few years where courts have declared programs like the DBE Program to be unconstitutional. This list shows court decisions by the Supreme Court, D.C. circuit, the third circuit, the fourth circuit, the fifth circuit, the sixth circuit, the seventh circuit, the ninth circuit, the eleventh circuit—all striking down race-based programs. The list also shows other unambiguous rulings of lower courts in Georgia, Connecticut, Ohio, Louisiana, Michigan, Colorado, and the city of Houston—again, all striking down race-based programs.

Mr. President, I ask unanimous consent that this list be printed in the RECORD.

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

RACE-BASED CONTRACTING PROGRAMS ARE ROUTINELY STRUCK DOWN

The Congressional Research Service has explained that the recent district court decision in *Adarand* conforms to a pattern of federal rulings across the country striking down race-based contracting programs as unconstitutional.

See City of Richmond v. *Croson*, 488 U.S. 469 (1989); *Lutheran Church-Missouri Synod* v. *FCC*, 141 F.3d 344 (D.C. Cir. 1998); *Monterey Mechanical* v. *Wilson*, 125 F.3d 702 (9th Cir. 1997); *Engineering Contractors Ass'n of South Florida, Inc.* v. *Metropolitan Dade Co. 1997 WL 535626 (11th Cir. 1997)*; *U.S.* v. *Board of Education of the Township of Piscataway*, 91 F.3d 1547 (3d Cir. 1996); *Hopwood* v. *State of Texas.*, 95 F.3d 53 (5th Cir. 1995), *cert. denied*, 116 S.Ct 2581 (1996); *Podberesky* v. *Kirwan*, 38 F.3d 147 (4th Cir. 1994), *cert. denied*, 115 S.Ct. 2001 (1995); *O'Donnell Construction Co.* v. *District of Columbia*, 963 F.2d 420 (D.C. Cir. 1992); *Milwaukee County Pavers Ass'n.* v. *Feidler*, 922 F.2d 419 (7th Cir. 1991); *Associated General Contractors of California, Inc.* v. *San Francisco*, 813 F.2d 922 (9th Cir. 1987); *Michigan Road Builders Assoc., Inc.*, v. *Milliken*, 834 F.2d 583 (6th Cir. 1987).

Houston Contractors Association v. *Metropolitan Transit Authority of Harris County*, 993 F.Supp. 545 (S.D. Tex. 1997); *Adarand* v. *Pena*, 965 F. Supp. 1556 (D. Colo. 1997); *Associated General Contractors of America* v. *Columbus*, 936 F. Supp. 1363 (S.D. Ohio 1996); *Louisiana Associated General Contractors, Inc.* v. *Louisiana*, 669 So.2d 1185 (La. 1996); *Contractors Ass'n. of Eastern Pennsylvania* v. *Philadelphia*, 893 F. Supp. 419 (E.D. Pa. 1995), *affirmed* 91 F. 3d 586, (3d Cir. 1996) *cert. denied*, 117 S. Ct. 953 (1997); *Arrow Office Supply* v. *Detroit*, 826 F. Supp. 1072 (E.D. Mich. 1993); *Arrow Office Supply* v. *Detroit*, 826 F. Supp. 1072 (E.D. Mich. 1993); *Associated General Contractors of Connecticut* v. *New Haven*, 791 F. Supp. 941 (D. Conn. 1992); *S.J. Groves & Sons Co.* v. *Fulton County*, 696 F. Supp. 1480 (N.D. Ga. 1987).

Mr. MCCONNELL. Finally, Mr. President, undisputed fact No. 10: If we are willing to grant expedited review to ensure the constitutionality of everything from census sampling to vouchers to vetoes to balanced budget laws

to Internet restrictions, then surely we would all agree that Americans deserve to know whether an important law involving race, civil rights, the 5th and 14th amendments, is constitutional.

We all know that there are many more cases striking down racial preference programs than there are cases striking down vouchers, or line-item vetoes, or balanced budget laws, or Internet restrictions. In fact, I will bet that you could combine and add up all of the cases striking down vouchers, line-item vetoes, balanced budget laws, and Internet restrictions, and that amount still would be less than the number of court cases striking down racial preference programs. Surely, if we have given expedited review to all of those other issues, then we are going to give expedited review to the critical issue of civil rights and the constitutional guarantee of equal protection of the laws.

Mr. President, I have spelled out 10 undisputed facts which serve as the common ground for the amendment I have offered. I think these facts are more than reason enough to immediately pass this expedited review amendment.

Let me simply close by pointing out that the time for debating the constitutionality of the DBE Program has passed. Now the courts must decide. My proposed amendment simply just says that the Supreme Court should tell us once and for all whether a transportation program that treats contractors and subcontractors differently based on race can survive strict scrutiny.

We must ensure the constitutionality of the DBE Program. We owe it to the States and localities that are receiving the billions of dollars in TEA 21 funds.

We owe it to the contractors who are threatened with the loss of jobs and contracts if they do not comply with the constitutionally suspect mandate of TEA 21.

We owe it to the minority-owned businesses who are forced to hang in the balance and twist in the constitutional winds wondering if the current program will survive a court challenge.

And, finally, we owe it to every American who sent us to the U.S. Senate to faithfully uphold the Constitution.

Mr. President, that is all this amendment would do. Regardless of how Senators may have voted on this measure back in March, this would quite simply just provide expedited Supreme Court review in this field. This is something we have frequently done, as I indicated in my prepared remarks.

I hope that this amendment will be cleared and accepted on both sides of the aisle.

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.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. MOSELEY-BRAUN. Mr. President, I would like to respond to the amendment by the Senator from Kentucky. But at the outset, I want to point out that inasmuch as this amendment came, we haven't had a chance to go back and check citations and check the references that he made in the speech. However, I would point out that at the outset, the simple and obvious undisputed fact is that the Governor of Kentucky does not like the idea of there being any disadvantaged business enterprise law in this great country, and wants very much to see it repealed. This amendment is no more and no less than a subterfuge for that. Frankly, as far as I can determine, it will effectively tie up the consideration of this legislation.

I tried to listen as closely as I could to the Senator from Kentucky in his argument with regard to the reasons for the expedited consideration.

I would point out that our Constitution provides a process, a procedure, for judicial review of legislation passed by this Congress, not the least of which requires the handling of a case in controversy. Those constitutional requirements and those procedures have been in place really since, I would say, the founding of this country. But that probably is not true. Marbury v. Madison was probably the first case in which the ability of the judiciary to determine the constitutionality of an act of Congress was upheld. And I think the precedent goes back to that.

The Senator from Kentucky wants to have this Senate say that the procedure that has stood in very good stead for the consideration of all the legislation that we have passed over the last couple hundred years is not good enough when the issue is race; that it is not good enough when the issue is gender; and, that is not good enough when the issue is providing some avenue for bringing people into the main stream of our American economy who had heretofore been excluded from it.

I point out that the DBE is shorthand for Disadvantaged Business Enterprise. It is in the first instance a business enterprise. It says that of the contracting that takes place in transportation, it is only right, it is only fair, that women, that minorities—and minorities meaning a whole range of people—have an opportunity to participate as equal partners in the conduct of business for the development of the Nation's transportation system. This is not anything, or this should not be anything dramatic. This shouldn't, frankly, rattle any cages, particularly when one considers that the amount of contracting the last time I looked was less than 5 percent for women and for minorities.

When you think about that, you are talking about women being roughly half the population of this country and minorities as roughly another 40 percent or 30 percent of this country. So the majority of the population is allowed an opportunity to participate at a minority level in contracting under the Department of Transportation by virtue of this Disadvantaged Business Enterprise Act. It has obviously been a matter of controversy precisely because it speaks to open the door to women, it speaks to open the door to minorities, it speaks to Federal contracting activity under the auspices of, again, the Disadvantaged Business Enterprise section of ISTEA, which is the Intermodal Surface Transportation and Efficiency Act.

This has been a controversy to the extent that the Supreme Court has already taken the issue up in another context at least with regard to a State court law in the Adarand v. Pena case.

In the Adarand v. Pena case, the Supreme Court said that the Federal Government must subject affirmative action programs to "strict scrutiny," meaning that the programs must be "narrowly tailored" to meet a "compelling government interest."

The Court explicitly in that case stated that affirmative action is, in fact, still necessary. It wrote, and I want to quote from the Adarand case:

> The unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and the government is not disqualified from acting in response to it.

I will even take issue with that part of the dicta in the case in that the DBE law, the Disadvantaged Business Enterprise law, applies not just to racial minorities; it applies not just to ethnic minorities, but applies to women as well.

So we have a situation in which individuals who, because of their situation, their status, their station in society, had not been previously able to do business, start out with something of a disadvantage, and it is for that reason that the program was initiated to correct that imbalance to bring some fairness, to bring some equity, to bring some fair share of the spending of Federal contracting dollars with the majority-minority community.

I say again, "majority-minority" community, because when you add women and African Americans, Hispanic Americans, Native Americans, Asian Americans, all of the different groups included in the definition, the last time I looked, when you add all of the minority groups, when you add women, you are really talking about a majority of the population of this country. The DBE, Disadvantaged Business Enterprise, section of the law

allows them to participate in the transportation equity, in the Department of Transportation funding.

The question is, Why are we here to talk about this amendment? What does this amendment do, and why does it seek to do it? Well, what this amendment says is that the minute someone comes in and says, "Oh, my goodness, I don't think that this is constitutional," that the case has to be expedited; that the district court advance, expedite over everything else.

That means, then, that if you are a district court judge, and someone comes in with a case that says, "Ah-ha. I think that the program that is giving this female contractor the asphalt paving contract in my State, I think that is illegal." Then your case goes ahead of the murder cases on the docket; your case goes ahead of the drug cases on the docket; your case goes ahead of the antitrust cases on the docket; your case goes ahead of the civil rights cases on the docket; and your case goes ahead of everybody.

We have to ask ourselves: Does this make any sense at all? Why is there such an egregious harm? What devastating occurrence has taken place that would give this claim a right to overcome everything else on a court's docket and make it go directly to the Supreme Court? Do not pass go, do not take advantage of the procedures that have been placed literally, in many instances, since the founding of this Republic.

The Senator from Kentucky apparently thinks that opening up the door and allowing women and allowing minorities to have some part of the business enterprise of this country is just that egregious an occurrence that it ought to take precedence in its ability to be challenged in the courts; that we ought to throw aside hundreds of years of precedents in court, hundreds of years of procedure in order to make certain that a claim of this magnitude goes directly to the Supreme Court, and has an opportunity to be heard immediately before anybody else has the right to get protected.

I submit to my colleagues that the logic of this amendment is what fails it the most. It is simply not logical to put aside everything else on a court's docket to avoid the court of appeals altogether, to take this dramatic move to redress what injury. What injury? I think the Senator from Kentucky fails to demonstrate the injury. The Senator from Kentucky also fails to talk about what standing, what case or controversy, what issue would give rise again to the need to undo all of the procedures associated with the challenging of the constitutionality of cases in the courts of this country.

So what this amendment really is about is attacking the legality of the DBE set-aside program through the side door. Would that it be through the back door, it would be even more direct. But this goes through a side door and takes with it the integrity of the court's procedures. This goes through a door that says, "Whenever we don't like something in this Congress, we can just change the law and change the relationship between the courts and the executive branch and the legislative branch willy-nilly as we see fit and come up with a brand new procedure that we create out of whole cloth."

That is what this amendment does. It creates from whole cloth a process of appeal for a set of circumstances, again, the injury of which, frankly, escapes me, and I think escapes a number of our colleagues.

I would point out that the front-door attack on the DBE Program failed, failed by 58 votes during the ISTEA debate, and it was, frankly, a very good thing, in my opinion. I understand the Senator from Kentucky and I see these things differently, but in my opinion it was a very good thing that a number of our colleagues recognized they would have to go home and explain to all of the women who had wanted to do business with the Department of Transportation the door was slammed in their face, and that wasn't a good thing. Then they would have to go home and explain to all of their minorities, be they racial minority or ethnic minority, why the door was slammed in their face. And that would not be a good thing.

The amendment was defeated in the front-door attack, and so now the Senator from Kentucky has developed a way to come at it sideways by saying, We are not going to ourselves repeal it, or attempt to repeal it, because we cannot repeal it; we are not ourselves going to take on straight forward the legality or the propriety of the Disadvantaged Business Enterprise Program, and we are not going to go in the back door, either. We are going to get in the side door. We are going to let anybody out there who might want to take up this cudgel for us, who might want to play politics in the courts for us, we are going to give them an opportunity to do it, and we are going to let them do it in an expedited way.

Well, let me suggest that this is not a place where new judicial procedures ought to be supported. There is no reason for this new set of procedures or for this new expedited appeals process. This controversial amendment does not belong on this bill because, quite frankly, I believe this amendment in and of itself would be enough to bring down this bill. I don't think the Senator from Kentucky or anybody else wants to see something as important as this legislation go down over this novel, creative, innovative, imaginative, interesting but bizarre, legal procedure that is being suggested by the Senator from Kentucky.

I have just received a note from the ranking member, and I don't know if he wants to say something or not, but, in any event, I certainly will defer to him and his leadership in this area. He has been exemplary over time.

Mr. President, I plead with the Senator from Kentucky to refrain from the controversy that is about to be visited on this very important legislation.

I thank the Chair, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. 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. McCONNELL. Mr. President, this is not a complicated amendment. We had the debate back in March on the DBE Program and the Senate spoke. The Senate decided that it wanted to accept on faith that the administration would issue regulations that complied with the Adarand decision and the subsequent district court decision ruling the DBE Program to be unconstitutional. All the amendment of the Senator from Kentucky does is provide for an expedited review of those regs once they are promulgated and litigated as they will certainly be litigated.

It is not unusual on matters of extraordinary and constitutional significance for the Congress to say, "We would like to get an expedited review, an answer to the issue." So that is all this amendment is about. It does not deal with the merits of the debate at all. The Senator from Kentucky did not support the program and did think the Senate ought to follow the Adarand case, but the Senator from Kentucky lost that debate, cheerfully, I might say, and all we are asking for here in this proposal is to get an expedited Supreme Court review of the new regs after they are promulgated.

I, frankly, thought this amendment would be accepted and am somewhat surprised that we are having a debate about it. But that is all this amendment does. Regardless of how Senators may have voted on the DBE Program back in March, this is not about that. All this amendment does is obtain an expedited decision by the Supreme Court once some regulations are, at long last, promulgated.

I see my friend from Alabama in the Chamber. Let me just mention a few other bills in which we did this. This is not unusual. We did it with the line-item veto, which the Supreme Court recently struck down. We had such a provision in the Communications Decency Act. We had it in the census sampling measure in last year's Commerce-State-Justice appropriations bill. We had a similar provision in the D.C. Schools Opportunity Scholarships

Act and the Gramm-Rudman-Hollings Act.

Mr. President, this is not in any way extraordinary or unusual to hope that the Supreme Court might give us some expedited guidance is a matter of great importance.

Mr. President, I see the Senator from Alabama in the Chamber. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I had occasion to study this issue previously, and there is a serious question this country is facing. I believe the Supreme Court has given attention and careful review to it. I believe they are very, very sensitive to the national interest in having minority citizens, minority groups be able to rise and succeed in our Nation. At the same time, I think the Supreme Court is troubled by a policy that, in effect, says you have a preference simply because of the color of your skin. In fact, I think that they have said Adarand could violate the Constitution of the United States. That is a serious matter. I believe the Adarand decision is well decided. I believe in my judgment, and I don't claim to be a Supreme Court Justice, but in my judgment the present statute that we passed is in violation of Adarand. But, regardless of that, the President has said that he can cure the problems of Adarand through regulations and they intend to issue regulations that would avoid this conflict. I am not sure that is possible. It may be. But what I hear the Senator from Kentucky to say is we are not here to debate that issue again. We are simply saying that if this law, and the regulations imposed by it, violate the Constitution of the United States, before we pass it we ought to set up a system in which there can be a prompt review by the courts to judge on that.

That is all this does, it seems to me. I salute him for suggesting at least one small step that will reach a final conclusion of this matter.

Before the Senate Judiciary Committee we had hearings on this matter. We had the lady who was married to the president of Adarand Corporation. She testified how they had suffered because of the set-asides in the transportation law. I think it is a serious question. If it is outside the Constitution, they ought to have an expedited review.

I think the Senator from Kentucky has proposed a reasonable, fair amendment. I think any of us ought to be able to support that. I thank him for doing so, and I look forward to continuing this healthy debate about how we ought to disperse the benefits in this country, what standards should be applied, and how our goods and services ought to be dispersed. I suggest they should not be dispersed on the basis of the color of one's skin.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN. Will the Senator from Alabama yield for a question?

Mr. SESSIONS. I will be glad to. I have yielded the floor.

Ms. MOSELEY-BRAUN. Is the Senator from Alabama aware that the program applies not just to people based on the color of their skin, but also to women, as well as other ethnic groups who have not historically done business with the Department of Transportation?

Mr. SESSIONS. Yes, the Senator is quite correct. It does apply to a number of different circumstances. Some of those circumstances, I suggest, probably are constitutional. Many of those things may be required. Certain parts of it may not be. I suggest, with regard to those that may not be, let's go on and not have it take 3 years to get up through the court system. Let's have a review so there can be a prompt determination of what would be legitimate and what would not be.

Ms. MOSELEY-BRAUN. I thank the Senator.

The PRESIDING OFFICER (Mr. FRIST). Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

If there is no further debate, the question is on agreeing to amendment No. 3326.

The amendment (No. 3326) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I want to thank Senator SHELBY and the entire Senate Transportation Appropriations Committee for their work putting together this legislation. I would like to briefly engage my colleagues in a colloquy on an issue important to me and my constituents in Vermont; preservation of our nation's historic covered bridges. The recently passed federal transportation legislation, ISTEA-2, contains language authorizing funding to protect historic wooden covered bridges. The National Historic Covered Bridge Preservation Act asks the Secretary of Transportation to study the appropriate techniques to protect and preserve covered bridges, distribute this information to states and towns across the country and grant funds to fully repair and protect these beautiful old historic structures. The bill, that is now law, authorizes $10 million for these activities. I understand the difficulty my colleagues had in distributing funds in this legislation. Although no funds were directly appropriated for these activities, I would ask the Chairman of the Senate Transportation Appropriations Subcommittee if he would agree that preservation of historic covered bridges should be a priority?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that preserving our nation's historic covered bridges should be a priority for the U.S. Department of Transportation and transportation departments across the nation.

Mr. JEFFORDS. Would the Senator agree that from available funds included in this legislation for the Federal Highway Administration that priority should be given to funding the collection and dissemination of information concerning historic covered bridges, conduct research on the history of historic covered bridges, and study the techniques for protecting historic covered bridges from rot, fire, natural disasters or weight related damage? Would the Senator agree that the Federal Highway Administration should use available funds to develop and publish guidance for implementation of the National Historic Covered Bridge Preservation Act?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that the Federal Highway Administration should make this a priority and move to publish guidance as soon as possible.

Mr. JEFFORDS. Would the Chairman of the Senate Transportation Appropriations Committee agree that funding for the repair and reconstruction of covered bridges should be given priority within the Bridge Discretionary Program?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that every effort should be made by the Secretary of Transportation to use funds from within the Bridge Discretionary Program to repair and rehabilitate covered bridges across the nation.

Mr. JEFFORDS. I would like to thank both Chairman CHAFEE and Chairman SHELBY for their commitment to covered bridges and for working with me to ensure that the program is fully funded within available funds at the U.S. Department of Transportation.

Mr. GORTON. Mr. President, I rise today in support of the Transportation Appropriations measure crafted by Senator SHELBY. This bill takes a significant step forward in addressing the transportation needs of the nation, and more specifically of Washington state.

As the Aviation Subcommittee Chairman, I am especially pleased with the generous increase in funding for the Airport Improvement Program. The Airport Improvement Program provides valuable grants to fund the capital needs of the nation's commercial airports and general aviation facilities. It allows the Secretary of Transportation and the FAA Administrator to fund planning, design, and construction of airport projects directly affecting aircraft operations, including runways, aprons, and taxiways, with the purpose of maintaining a safe and efficient nationwide system of public use airports.

Adequate funding for AIP is integral to addressing the infrastructure needs of our national aviation system. The GAO estimates that the gap between available funds and projected maintenance and construction costs for airports is almost $3 billion. The $2.1 billion included in this measure for AIP is a significant step toward bridging this gap. As the Aviation Subcommittee Chairman, I will continue to look for the best possible way to assist the Appropriations Committee in meeting the infrastructure needs of our aviation system.

Chairman SHELBY also included several aviation related items that will have a positive impact on Washington state's airports. Inclusion of $6 million for the Contract Tower Cost-Sharing Pilot Program is certainly a positive development for my state. This new program, which I am also working on in the context of the FAA reauthorization measure, will allow local airports that fall below the eligibility criteria for the existing program to cost-share with the FAA. The $6 million included by Chairman SHELBY will cover cost-sharing arrangements for approximately 30 contract towers across the country. Olympia and Felts Field are the two affected airports in Washington state that will be able to maintain their contract towers and, therefore, not diminish the current level of safety.

I am pleased that the Chairman included $3 million for the Tactical (Transponder) Landing System. This system was recently certified by the FAA and could provide immense benefit to airports that are surrounded by geographical barriers such as mountainous terrain or approaches over water that render the current Instrument Landing System useless. With the installation of a TLS, Boeing field, whose current approach patterns cause significant noise problems for local residents, will be able to structure much more agreeable landing patterns. Moscow/Pullman airport, which is also named in the bill, should be an excellent test of the effectiveness of a TLS in mountainous terrain.

I would also like to commend Chairman SHELBY for giving priority consideration to Felts Field, Pangborn Field, Paine Field, and Spokane International airports, which all face unique problems that I look forward to working with the FAA to resolve in a safe and timely manner.

This bill is not only positive for aviation. The Chairman has realized that innovative thinking and problem solving in the transportation field deserves priority consideration. This is demonstrated in the Transportation Planning, Research, and Development account, where the Chairman included two projects in Washington state that will serve as models for communities across the nation. The first is a freight mobility study instigated by the Kent, Washington Chamber of Commerce that will bring together representatives from federal, state, and local governments, as well as the shipping, trucking, and rail industries, along with organized labor, to brainstorm on ways we can make the existing system work better, realizing that we have finite resources with which to improve our aging infrastructure.

The other Washington state project included in the Transportation Planning, Research and Development account is the Chehalis Basin/I–5 Flooding project. Currently, flooding in the Interstate 5 corridor near Centralia/Chehalis in Washington state seriously compromises freight mobility, with damage and impact estimates of $50–80 million per day. The Washington State Department of Transportation (WSDOT) is currently planning to solve the problem by elevating the freeway for almost three miles. This would be a typical transportation project, but it would also exacerbate the flooding problem in the Chehalis River Basin and have extensive environmental impacts. The plan is estimated to cost $98 million, with funding anticipated from the federal roads allocation to the states. As an alternative, Lewis County is leading a consortium of three counties (with Grays Harbor and Thurston), two cities (Centralia and Chehalis) and the Chebalis Tribe to eliminate the I–5 flooding problem by solving the flooding problem in the upper Chehalis River Basin. Work on this project is well-advanced, and cost estimates range between $60–80 million. I look forward to working with the Chairman to ensure a significant federal contribution to assist in the costly permitting process that will make this common sense alternative solution a reality.

The Chairman was also very generous in his support for the Regional Transit Authority, which was recently renamed Sound Move. On November 5, 1996, the voters of the Puget Sound region approved this $3.91 billion transportation proposal. Sound Move will increase the capacity of the region's transportation system through a fix of light rail, commuter rail, High Occupancy Vehicle (HOV) expressways, regional express bus routes and "community connections" (such as park-and-ride lots and transit centers). Once completed, transit customers will be able to travel throughout a densely populated tri-county region in the state—Pierce, King and Snohomish counties—by local bus, regional bus, light rail and commuter rail, using a single ticket.

By passing the Sound Move ballot measure, voters in the Puget Sound region agreed to provide the local funding portion of the plan through a .4 percent increase in the local sales tax and a .3 percent increase in the motor vehicle excise tax. These tax revenues will provide a stable, dependable, dedicated source of local revenue for building, maintaining and operating the system. Coupled with revenue collected from bonds and fareboxes, this funding will provide a 62 percent local match for the light rail and commuter rail portions of the project and over 80 percent of the total $3.91 billion project.

Despite the voters' clear willingness to pay for an improved transportation system, the Regional Transit Authority needs federal financial assistance to successfully implement the light rail and commuter rail portions of this plan. The rail segment of the Sound Move proposal includes: a 25-mile light rail line with 26 stations between Seattle's University District and the City of SeaTac via downtown Seattle and the Seattle-Tacoma International Airport; a 1.6-mile light rail line between downtown Tacoma and the Tacoma Dome train station; and an 81-mile commuter line using existing freight track between Everett and Lakewood with at least 14 stations.

Mr. President, Sound Move is one of the most cost-effective projects in the nation, with one of the strongest local commitments. In fact, Sound Move ranked Medium/High in all categories in the recently released Department of Transportation FY '99 Report on Funding Levels and Allocation of Funds for Transit Major Capital Investments. These rankings demonstrate the overall strength of the project, which boasts ridership and cost effectiveness estimates that unquestionably rank it among the top new starts in the country. The voters around Puget Sound are eager to join the federal government in making this project a reality and it is my hope that the $60 million included in this measure for the rail component of Sound Move will be supplemented by the full $18 million which was included in the House bill for buses.

Mr. President, once again, I would like to thank the chairman for crafting a fair measure that adequately funds our national priorities while realizing and addressing the unique transportation problems facing Washington state.

Mr. McCAIN. Mr. President, the Senate has completed action on several of the annual appropriations bills that fund the federal government and its many programs.

The appropriations bills that have cleared the Senate to date contain many good provisions and generally provide appropriate levels of funding to continue the necessary functions of the federal government. But, Mr. President, these bills regretfully continue the practice of earmarking billions of taxpayers dollars for pork-barrel projects.

Over my tenure in Congress, I have consistently fought Congressional earmarks that direct money to particular projects or recipients, believing that such decisions are far better made through competitive, merit-based guidelines and procedures.

Traditionally, earmarking has been more geared to political interests rather than public needs and priorities. Highway demonstration projects, earmarked by Congress, have been a classic case-in-point. Most of these projects, which totals more than $9 billion in the Transportation Efficiency Act for the 21st Century (TEA-21), don't even appear on state priority lists.

The same is true for many other Congressional earmarks. I find this an appalling waste of taxpayer dollars. And, S. 2307 is typical of the types of earmarks and set-asides that Members add to the multi-billion dollar appropriations bills we annually consider.

This bill and report earmark more than $1.1 billion for site-specific bridge repairs and airport projects, research activities at selected universities, intelligent transportation projects, ferry systems, road improvements in ski areas, state-specific snow removal activities, bus purchases and transit projects.

Mr. President, S. 2307 continues Amtrak's subsidies yet goes so far to concoct yet a new spending scheme to pay for its operating costs. I will be proposing an amendment to ensure Amtrak's financial situation is not a moving target and that the integrity of the reform legislation enacted just over six months ago is not jeopardized by the proposals in this measure.

This bill further earmarks several million dollars of Amtrak's capital funds for new projects associated with Amtrak. The Committee report earmarks $1.4 million to relocate an Amtrak passenger station in Pennsylvania, $2.5 million to refurbish two turbo trainsets for Amtrak's empire corridor, and $1 million to install a speed monitoring system on locomotives operating between New Haven, CT and Boston, MA. The report also directs that $800,000 be used to restore the historic Southern Pines, NC, railroad station, which is owned by the State of North Carolina and served by Amtrak's Silver Star route.

Didn't the Congress agree last year that Amtrak needs to operate like a legitimate business? Isn't that why we approved legislation which placed Amtrak on a glidepath to free itself of operating subsidies? How is directing Amtrak to carry out these projects or requiring it to spend its resources on certain stations going to help Amtrak ever achieve its financial goals? Amtrak should be permitted to expend its funds on those projects it deems most critical, not on projects required by the whims of Congress.

Mr. President, in addition to the types of earmarking I have mentioned, the Appropriators have taken a number of actions that fall squarely under the authorizers' duties. For example, the bill would prohibit the Coast Guard from implementing any new navigation user fees. This means the Administration would be prevented from implementing even reasonable new user fees. I understand the concerns that the user fee proposed by the Administration are discriminatory in that they would target only certain users of the navigation system, but the language in the bill is overly restrictive.

Mr. President, there are some small earmarks in this year's transportation appropriations bill as well as some very large earmarks. For example:

More than 80 percent of the total funding provided for Intelligent Transportation Systems deployment projects are earmarked. The bill specifically sets aside more than $84 million for projects in 20 cities and counties, and in 13 states.

Although no dollar amounts are set for individual bus projects, the bill prohibits the Federal Transit Administration from using any of the $393,550,000 provided in the bill for any project not designated in S. 2307. All of the 150 TEA-21 authorized bus projects are included in the bill, and more than 150 new projects are named. Some of these projects have been earmarked in the past and others are new additions to the bus earmark parade.

The appropriators have earmarked all of the $902,800,000 provided for the new transit and transit system extensions program. Many of the projects are unauthorized and were not requested by the Administration.

Examples of the earmarks for unauthorized projects include $2.5 million for multimodal transportation in Albuquerque/Santa Fe, New Mexico; $8 million for a transitway corridor in North Miami; and $250,000 for a micro rail trolley system in Sioux City, IA.

Why are the appropriators so reluctant to permit projects to be awarded based on a competitive and meritorious process that would be fair for all the states and local communities? I suspect it is due to the fact they doubt the merits and worth of the very projects they are earmarking.

The bill contains a legislative amendment to section 1110 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). By making a simple definitional change, the provision would modify ANILCA to permit helicopters to land in all conservation system units in Alaska, including National Forests, National Wildlife Refuges, National Parks, and National Wilderness Areas. The legislative changes could result in large-scale helicopter tourism in these sensitive conservation system units. The transportation appropriations bill is not the appropriate forum to address a controversial environmental issue. A helicopter's ability to hover over an area is disruptive to wildlife, including large game species and nesting birds. In addition, the capability of a helicopter to land in areas where airplanes cannot causes concern for the integrity of the habitat.

I have only mentioned a few of the examples of earmarks and special projects contained in this measure and I will not waste the time of the Senate going over each and every earmark.

Mr. President, I also want to express the critical need for Congress to send a very clear message to Secretary Slater regarding the Department of Transportation's treatment of the committee report accompanying this bill. Earlier this week, I chaired a hearing on the Department's actions regarding discretionary funding decisions. Believe it or not, some of the DOT modal administrations do not even understand the clear delineation regarding statutory bill language and a committee report. While I did my best to impress upon these modes—particularly the Federal Transit Administration—that report language does not have the effect of law, I am still not sure they get it.

Therefore, I urge Secretary Slater to take immediate action to educate his Department on the very clear and significant differences between the bill language and report language. Report language is not law. Report language does not have the effect of law. Report language is advisory. It's as simple as that.

CONTRACT TOWER COST-SHARING

Mr. FAIRCLOTH. I would like to ask the distinguished chairman of the Transportation appropriations subcommittee about the provision in the bill that includes $6 million for an FAA contract tower cost-sharing program. I have several contract towers in my stat that would benefit greatly from such a program. What is the intention of this provision?

Mr. SHELBY. The FAA contract tower program has been proven to be a very cost-effective way for the FAA and local airports to work as partners to improve air traffic safety in many smaller communities. In fact, the Department of Transportation Inspector General recently determined that the program provides quality air traffic control services at a lower cost compared to the FAA. This cost-sharing

program would enable some airports that fall just below the eligibility criteria for a contract tower to retain their air traffic control services by paying for a share of the costs. The Committee believes that this program will improve aviation safety in small communities at a minimal expense to the FAA.

HIGHWAY RESEARCH AND DEVELOPMENT, BRIDGE STRUCTURES AND THE UTAH TRANSPORTATION CENTER

Mr. BENNETT. Mr. President, I rise today to enter a colloquy with the Chairman of the Subcommittee on Transportation Appropriations, Senator SHELBY. The topic of my colloquy addresses the ongoing design/build work on Interstate 15 through the Salt Lake Valley and the unique opportunity this project presents to conduct seismic and other bridge structure research on existing overpasses that will soon be replaced.

I would like to thank the Transportation Appropriations Chairman for his interest and support of research on Interstate 15 bridge structures during the reconstruction of this important segment of highway. The Subcommittee on Transportation Appropriations included language in its report (105–249, page 96) which provides $2,000,000 for research on Interstate 15 bridge structures. This report language directs the Federal Highway Administration to make this money available to the Utah Department of Transportation (UDOT) and the Utah Transportation Center (UTC), Chairman SHELBY, am I correct in understanding that UDOT was included in this language primarily to facilitate the flow of these federal funds to the Utah Transportation Center which will administer the research done by Utah State University, University of Utah and Brigham Young University?

Mr. SHELBY. My colleague from Utah is correct in his understanding of this situation. Since the Federal Highway Administration already has a relationship developed with UDOT, the Committee included the state agency to facilitate the flow of these research funds to the Utah Transportation Center made up by the universities mentioned. The Committee believes that these funds should be made available to the UTC expeditiously so that this opportunity for bridge structure research is not lost.

Mr. BENNETT. I thank the Chairman of the Subcommittee for his clarification and I thank the Chair for its time and attention on the Senate Floor.

SOUTHWEST FLORIDA INTERNATIONAL AIRPORT APPLICATION FOR A LETTER OF INTENT

Mr. MACK. Mr. President, southwest Florida is one of the fastest growing areas in the country. Not surprisingly it is also my understanding that RSW is the third fastest growing airport in the United States. Additionally, I am told RSW has experienced an average annual growth of 9.2 percent over the past ten years.

Due to this unprecedented growth, RSW has embarked upon a major expansion program which includes construction of a new terminal and runway. This project is one of the State of Florida's most important airport projects and it has received substantial funding from the State. Moreover, the Federal Aviation Administration has provided discretionary funding for this worthy project due, in no small part, to the support of the distinguished Chairman of the Transportation Appropriations Subcommittee, Senator SHELBY, and his subcommittee over the past two years through the prior Transportation Appropriations bills. I very much appreciate the support of the Senator for RSW and its expansion project.

Additionally, as the Senator may be aware, earlier this year RSW submitted a request for a Letter of Intent to the FAA in order to support their expansion project from the agency. Over the course of the last several years, recognizing the budget constraints which the FAA must operate under, RSW officials have worked hard to significantly reduce the federal share of this project by more than 30 percent.

I believe the Chairman of the Subcommittee can appreciate the efforts of RSW, in working with the FAA, to craft a plan which meets the needs of the airport yet substantially cuts costs in an effort to remain within the FAA's anticipated budget constraints. I feel confident this is the type of cooperation from a project which the FAA should consider for priority LOI consideration.

Mr. SHELBY. I thank the distinguished Senator from Florida for his comments regarding our subcommittee's past support of the Southwest Florida International Airport. The Senator has been very active in keeping the subcommittee informed on the progress of the expansion at RSW. Because of this, I am well aware of the intense growth that this airport has experienced over the past several years.

Likewise, I am aware of the efforts of RSW to work with the FAA in developing an LOI request, and that this effort has resulted in a substantial reduction in their request, making it reasonable within today's budget environment. I believe the behavior and efforts exhibited by RSW in working with the FAA, as well as their established need, are exactly the sorts of things the FAA should be looking for when considering LOI requests. Accordingly, I encourage the FAA to give priority consideration to RSW's request for a Letter of Intent.

Mr. MACK. I thank my colleague from Alabama for his past commitment and support of the Southwest Florida International Airport (RSW) and look forward to continue working with him in the future.

KEEP HELICOPTERS OUT OF WILDERNESS

Mr. LEAHY. Mr. President, there are maybe thirty-five legislative days left this Congress. We have passed six out of thirteen appropriations—and those have been the easier ones. Now—we are facing the appropriations bills that are bogged down with legislative riders and have already invoked Presidential veto threats.

The Transportation Appropriations bill though is fairly clean and we might be able to pass it tonight. Unfortunately, the temptation to put environmental riders on this bill could not be resisted. Section 342 of this bill will overturn eighteen years of national environmental policy, open some of the most pristine wilderness in the country to helicopter landings.

Mr. President, I was here when the Alaska National Interest Lands Conservation Act was passed by Congress. I remember the careful balance that was crafted to pass this landmark legislation. The question of allowing helicopters was raised at that time and the answer we came up with was to not allow them in wilderness areas except for emergency situations. If you look at the legislative history included in the Senate Report for ANILCA it specifically lists what transportation was allowed in wilderness areas and helicopters are not one of them.

Instead, it directed the Secretary of the Interior to allow airplanes to be used in wilderness areas for traditional activities. Mr. President, I understand why this exception to the national Wilderness Act was made for Alaska and I supported it at the time. But I supported it as part of a larger compromise. One that this language will now undo.

Two years ago, the Forest Service conducted an Environmental Impact Statement on this same proposal and concluded that helicopters were not airplanes and were not a traditional means of access to the wilderness areas. Obviously, some of my colleagues do not like this conclusion and felt that tacking an environmental rider onto the transportation appropriation bill was the best way to get around it.

The Interior Department has also objected to this language due to the impact on wildlife in these wilderness areas. Mr. President, I think we all know that a helicopter flying overhead is much louder than a small airplane flying overhead. Helicopters blast the adjacent area with a minimum of 100 decibels or more.

But this language is not about just sheer noise. It is also about allowing helicopters to hover and land anywhere in these areas—the remote reaches of the Tongass National Forest, the glaciers of Kenai Fjords National Park and even the inlets of Glacier Bay.

Although it may seem like it now, I am not the only person speaking out

against this language. I have over thirty five letters from outfitters, bush pilots and tour guides in Alaska who oppose this language.

So, Mr. President, I simply ask: What is the rush? Why are we including language in a transportation appropriations bill that rewrites legislation that has been on the books for eighteen years, on which no hearings have been held and that has been recommended for a veto?

Mr. FEINGOLD. Mr. President, I want to express my concern about Section 342 of the Senate FY 99 Transportation Appropriations Bill. That section creates an exception in the Alaska National Interest Lands Conservation Act allowing helicopter landings by the general public on federally-designated wilderness and other protected lands within Alaska.

Federal wilderness lands in Alaska are covered by two federal laws: the Wilderness Act of 1964 and the Alaska National Interest Lands Conservation Act, known as ANILCA. To describe the interaction of these statutes in more detail, Mr. President, the Wilderness Act establishes a federal definition of wilderness, and governs the use and administration of land within the various states that have been designated by Congress as federal wilderness. ANILCA, which passed in 1980, is the statute which designated various lands within the state of Alaska as federal wilderness. It also conferred other federal land use designations, creating parks, monuments and other protected status lands in Alaska.

The reason I am concerned about Section 342 of the bill before us is that it replaces the word "airplane" with "aircraft" within ANILCA. Though such a change would appear benign to those who do not know the statute well. However, that is not the case. The practical effect of the proposed amendment would be to permit helicopter landings by the general public in federal wilderness areas and other protected lands in Alaska.

Why is this such a concern, Mr. President? There are two major reasons why I find this one-word switch troubling. First, expanding the type of aircraft allowed in federal wilderness areas violates the Wilderness Act and sets an alarming precedent.

Section 1110 of ANILCA presently permits the general public use, on lands protected under the act, of "snow machines, motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities." Although airplane use is specifically permitted in Alaska under ANILCA, helicopter landings by the general public are prohibited in all federal wilderness. However, helicopter landings are permitted on a discretionary basis by the federal land management agencies for emergency situations. All public lands in Alaska allow helicopters to land for that purpose.

I strongly support allowing helicopters in wilderness areas to rescue injured or lost visitors. And those uses are already allowed. However, I have concerns about allowing helicopter landings in wilderness for other than emergency reasons, for purely recreational purposes.

In my home state of Wisconsin, people love the wilderness areas they visit such as the Boundary Waters Canoe Area Wilderness and the wilderness areas in the Nicolet and Chequamegon National Forests. The reason they love those places, Mr. President, is not only because they are among the most beautiful spots in the Upper Midwest, but also precisely because they are remote and are challenging to reach. National Parks are beautiful places. I support them, and I visit them with my family. However, National Parks, which have roads and restaurants and maintained campsites, are not the same as the lands protected under the Wilderness Act. National Parks are maintained for public access, wilderness areas by contrast, are areas where one can bring one's canoe and tent and hike in, or fly to in a float plane, as permitted today under ANILCA. By these means of transportation visitors can enter wilderness areas in a relatively low impact manner.

Allowing helicopters into wilderness areas would mean managing lands, that according to the Wilderness Act are supposed to remain undisturbed by human access, in a contradictory manner. Imagine being in a remote spot surrounded by nature on a nice getaway and having a helicopter land right next to you to drop people off for an afternoon of wandering around? I believe we should not sacrifice the very reasons we have protected wilderness in an effort to increase access to the wilderness. If it's easy to get to, it's not a wilderness.

Second, Congress and federal land management agencies have already considered the issue of helicopter use on wilderness lands in Alaska and have found it to be inappropriate and incompatible. The Forest Service has explicitly considered and rejected helicopters in Alaska's wilderness. In 1997, the Forest Service completed an EIS specifically addressing helicopter landings in more limited circumstances than the language in this bill. At that time, the proposal was to allow helicopters in areas other than specifically designated wildlife, cultural resource, and research areas. Section 342 would allow helicopters in all areas.

The legislative history of ANILCA also specifically excluded helicopters from lands designated under that Act. The Senate Energy Committee considered special access to lands subject to ANILCA, and the Committee Report stated "the transportation modes covered by this section are float and ski planes, snowmachines, motor boats, and dogsleds."

Congress has already considered this issue, Mr. President, and we have found that helicopters for general public access do not have a place in Alaska's wilderness areas. I would urge that we not go back on this sound judgment. I yield the floor.

AMTRAK

Mr. MCCAIN. Mr. President, I am very concerned over this bill's proposal concerning Amtrak's funding and will offer an amendment to ensure the proposed scheme does not jeopardize the integrity of the Amtrak Reform and Accountability Act, P.L. 105–134, enacted on December 2, 1997.

Congress worked for a number of years in a bipartisan manner and each side accepted compromises in order to provide Amtrak with the statutory reforms it said it needed to allow it a real chance to meet its financial goals. The reform bill was based on both Amtrak's Strategic Business Plan, a plan charting Amtrak's financial operating and capital needs, and its federal grant request. And of course, its ultimate approval was the key to releasing the $2.2 billion "tax credit" for capital investment.

As my colleagues well know, I am not a proponent of a system that was intended to be privatized two years after it was created in 1971, but instead today has racked up more than $21 billion in taxpayer support even though it serves less than one percent of the traveling public. However, I worked in good faith with my colleagues and compromised to enable enactment of a legitimate reform bill.

I have been standing by the deal I cut. I have done nothing to hinder Amtrak nor have I offered proposals to prevent it from having the opportunity to fulfill its goals. But am I the only one who believes a deal is a deal?

Mr. President, I am sick and tired of the Administration and Amtrak seeking to change the agreement which is law.

First the law required the establishment of an 11-member Amtrak Reform Council (ARC) comprised of individuals appointed by the House, Senate, and the President. The ARC is responsible for evaluating Amtrak's performance and make recommendations to Amtrak for further cost containment, productivity improvements, and financial reforms. The ARC is required to submit annual reports to Congress and it is responsible for determining if Amtrak is meeting its financial goals.

While the House and Senate fulfilled its duties to appoint its members, the President has yet to make all of his appointments. As such, Senator LOTT, myself, and Congressman SHUSTER encouraged the appointed members to meet and begin carrying out its duties.

It seems the Administration thought they could hold up the ARC from doing its work if it dragged its feet long enough but that is not the case. In fact,

the Department of Transportation even resisted fulfilling its administrative duties associated with the ARC in an attempt to hinder the ARC. But the ARC members have not let DOT hold them back and they have begun a steady meeting schedule.

Next the law called for a new Reform Board to replace the Amtrak Board of Directors serving at the time of enactment. Since we expect Amtrak to try to reinvent itself and to operate like a real business, we included a provision to allow a new leadership to guide Amtrak and instill a "new culture" among Amtrak employees and management.

Mr. President, several provisions concerning the establishment of the new Board were included in the reform bill in an attempt to prompt timely action by the Administration and Congress. Unfortunately, the spirit of these provisions was met with little regard.

The law required the new Board to be in place by March 31, 1998. Yet, the Senate did not receive even a single nomination from the President until the eve of the Memorial Day Recess. Due to concerns that the Administration may drag its feet indefinitely, Amtrak's authorization was linked to the nomination and confirmation of a new Board. Specifically, the law provides that if the new Reform Board has not assumed the responsibilities of the Amtrak Board of Directors before July 1st, Amtrak's authorization would lapse. The law also automatically discharged pending Board nominations from the Senate Commerce Committee if the Committee had failed to act by June 1st.

Presidential nominations require Senate confirmation, with hearings and review by the appropriate Senate Committees accompanying nominations. Yet due to the lack of timely action by the Administration, the Commerce Committee had no opportunity to carry out its duties prior to the statutory automatic June 1st discharge. It is my view the Administration's timing was a direct attempt to circumvent the Commerce Committee's authority in this regard.

Mr. President, my position regarding the new Board was made clear from day one. I repeatedly voiced my concerns to the Administration each time I heard rumors of its plans to reappoint current members. I was very clear that the Commerce Committee would not report favorably any Board hold-overs and I remained firm on that position. I truly believed even the Administration would acknowledge we didn't create a new Board only to reappoint the same members.

So what happened? The Administration sent up the nominations as Congress headed into a recess. Two of the six nominations needing confirmation were Board holdovers—that is, one-third. As I have said before, the Administration must have known that the Commerce Committee would be unable to fulfill its hearings and review prior to the statutory discharge date, given the Administration's stealth nomination submission.

However, in an effort to ensure Amtrak's authorization remained intact, I again worked in good faith with the Majority Leader and others to confirm some of the nominations in order to meet the deadline. The Commerce Committee now has an opportunity to consider whether the pending Board nominees should be approved and sent to the full Senate for a vote.

The law further provides for Amtrak to be free of operating subsidies within five years. If the ARC determines Amtrak is not meeting its fiscal goals, the ARC is to develop a plan for an alternative system. At the same time, Amtrak is to develop a plan for its liquidation. If at such time this occurs, the Congress will then need to approve a restructuring plan, or the liquidation proceeds.

As I've mentioned, the sunset trigger is contingent upon Amtrak meeting its fiscal goals and being free of operating subsidies by fiscal year 2002. Yet the Administration is again attempting to get around the law. And this time, the Appropriators are helping. .

The Appropriation bill proposes to permit Amtrak to pay for its operating expenses with its capital funds. I am told this proposal is strictly due to budgetary scoring concerns. However, I am not sold.

With the stroke of a pen, this bill jeopardizes the integrity of the reform bill—specifically the sunset trigger. Amtrak's proponents could just waive this bill as a demonstration that Amtrak is free of operating subsidies, since the bill does not include a line item for operating expenses as historically has been the case.

As I see it, Amtrak and the Administration are simply attempting to shift operating expenses into its capital budget, thereby backing away from agreements reached last year during the hard-fought reauthorization process. While the reauthorization placed a cap on the amount of money that may be appropriated in any one year for operational expenses or capital investments, the authorized levels were based on Amtrak's own projected financial needs.

Mr. President, during the last days of negotiations on the reform legislation, you may recall certain members of the Amtrak Board of Directors negotiated a new labor agreement which raised salaries for union employees, thereby incurring a substantial increase in its operational costs. Amtrak's projected net loss for FY 1998 is greater than the previous year's in part due to the Board's own actions. Yet, the Board assured us at the time that the labor agreement would require no action by Congress—nor more importantly, would the labor agreement place any additional obligations on the American taxpayers. However, shifting labor costs into the "capital" account could clearly result in the taxpayers once again being forced to cover expenses due to Amtrak's poor management decisions.

We authorized Amtrak at funding levels based on its own projected needs. Further, we directed an independent financial assessment of Amtrak be carried out under the direction of the Inspector General of the Department of Transportation. That audit will be based in part on Amtrak's Strategic Business Plan, including its projected operating and capital costs. Should Amtrak be permitted to significantly change the way it accounts for operating and capital expenses, an accurate accounting could be next to impossible. The proposed change in the use of capital funds raises legitimate concerns whether Amtrak and the Administration may be attempting to keep Amtrak's financial situation and Strategic Business Plan projections a moving target.

Further, we have continually been told Amtrak has critical capital investment needs. Yet, I am told that more than $500 million of the $621 million for capital would likely go to cover labor and other operational costs under this latest proposed scheme. If Amtrak is permitted to shift capital funds to cover what traditionally have been considered operating costs, how will Amtrak make up for the corresponding loss in funding for its capital improvements? Time and again we have been told Amtrak faces critical infrastructure investment needs which must be met if Amtrak is to have any chance of becoming a viable operation. Time and again we have been told Amtrak needed a dedicated source of capital. As I see it, the change has the very real potential for jeopardizing Amtrak's abilities to meet its capital needs which it has sought so long to accomplish.

Therefore, the amendment I will offer is intended to retain some semblance of legitimacy to P.L. 105–134.

BUS FUNDING FOR NORTHERN NEW MEXICO PARK AND RIDE

Mr. BINGAMAN. I know the Chairman and Ranking Member are aware of the proposal in the state of New Mexico to start up a new park and ride transit system that would serve the cities of Los Alamos, Pojoaque, Española, and Santa Fe. I first brought this exciting proposal to the senators' attention last September. Is the Chairman also aware that last August the State of New Mexico ran a two-week trial run of the proposed transit system and that the demonstration was an enormous success, with over 1500 riders per day and an estimated reduction of 750 vehicles?

Mr. SHELBY. Yes, Senator, I am aware of the success of the state of

New Mexico's initial two-week demonstration of the Northern New Mexico Park and Ride.

Mr. BINGAMAN. I know the Senators are aware that, at my request, last year the subcommittee provided $1.5 million to the state to begin full-time transit service in Northern New Mexico this fall using leased buses and borrowed facilities. Is the Ranking Member also aware that the commitment of the local governments to the program has also been demonstrated by individual contributions of $100,000 each from the City of Santa Fe, Santa Fe County, Los Alamos County, and the Los Alamos National Laboratory?

Mr. LAUTENBERG. Yes, Senator BINGAMAN, I am aware of the funding commitments from the local governments and Los Alamos Lab for the Northern New Mexico Park and Ride.

Mr. BINGAMAN. Is my understanding correct that for fiscal year 1999 the Transportation Appropriations Subcommittee did not identify individual programs and funding amounts for discretionary grants for bus and bus facilities, but that the conference with the other body may present an opportunity to identify individual projects and funding amounts? If that is indeed the case, can the citizens of Northern New Mexico count on the Senators' efforts to identify $10 million to purchase the needed buses and bus facilities to allow the Park and Ride program to continue beyond the first year?

Mr. SHELBY. The Senator can be assured we will give the project our full consideration in the conference.

Mr. LAUTENBERG. I appreciate knowing of the Senator from New Mexico's interest in the Northern new Mexico Park and Ride.

Mr. BINGAMAN. I thank the Senators for their consideration.

CONSTRUCTION OF THE NEW CASTLE COUNTY AIRPORT CONTROL TOWER

Mr. BIDEN. Mr. President, I rise this evening on behalf of myself and my distinguished colleague from Delaware, Senator BILL ROTH, to note the importance of a project at the New Castle County Airport in Delaware that involves the Federal Aviation Administration, and to ask the help of the managers of this bill.

In an extraordinary—and what is believed to be the first-of-its-kind offer—the owners of the New Castle County Airport—a bi-state compact known as the Delaware River and Bay Authority—has agreed to pay the approximately $5 million it will cost to construct and equip a new control tower. This facility will replace the 43-year old existing tower which does not meet federally-mandated safety and environmental standards.

The FAA, however, has now taken the position that not only should the Delaware River and Bay Authority finance the cost to design and construct a new control tower, but also pay $2.3 million for the FAA's overhead, equipment and administrative costs to oversee the project.

In addition, the FAA wants the sponsor to reimburse the agency $1 million for costs related to the relocation of the FAA's Very High Frequency radar system (VOR) at the Airport—even though the FAA's current lease indicates the FAA should bear such costs.

With the Airport sponsor willing to finance the significant cost of constructing a new control tower for the FAA, the agency should not impose additional overhead costs on that sponsor.

The owners of the Airport have worked diligently and cooperatively with the FAA for the past three years on this project, but continue to encounter further financial demands and bureaucratic delays.

Clearly, this new control tower will help the FAA. Not only will the FAA get a new, state-of-the-art tower at no cost, if the New Castle County Airport is able to expand, it will help the FAA solve the growing problem of air traffic congestion at major commercial airports in Philadelphia, Baltimore and New York.

We believe it is in the best safety interests of all parties—the FAA, the Delaware River and Bay Authority, and most importantly the flying public—that this critical airport in Delaware be allowed to construct a new control tower facility for the FAA, without additional financial demands and delays.

It's our understanding that the House Appropriations Committee Report accompanying the FY'99 Transportation Appropriations bill specifically directs the FAA to assume the approximate $3.3 million in overhead costs. I rise today to bring this important issue to the attention of the Chairman and Ranking Member and to seek your help in working to include this House language in the Conference Report.

Mr. SHELBY. Yes, we appreciate the concerns raised by the Senators from Delaware. We agree with the House Report language and want to assure you that we will work with you to ensure that these additional overhead costs are not imposed on the airport sponsor willing to construct the new control tower.

Mr. BIDEN. I thank the Senator, and I yield the floor.

Mr. DEWINE. Mr. President, I would like to take a moment to commend the Chairman of the Appropriations Subcommittee on Transportation, Senator SHELBY, for the work he has done on this bill. It is not easy to balance the competing interests in any appropriations bill, but I think it is even more difficult on transportation appropriations. I would also like to call attention to one area of the Senate's bill which is very different than the House version.

The Federal Automated Surface Observing System (ASOS) Program, which began in the late 1980's, is sponsored by the Federal Aviation Administration (FAA), the National Weather Service (NWS), and the Department of Defense (DoD) and currently includes over 860 ASOS units. For its part, as of December 2, 1997, the FAA had procured 569 ASOS units. Yet only 297 of these units had been commissioned as of June 16, 1998.

The current Senate bill provides $20.97 million for the Automated Surface Observing System (ASOS). This amount is $11 million more than the Administration request. According to the Committee report, $9.9 million is to be used to commission systems that have already been purchased. This only makes sense. After all, the Federal government purchased these systems. They might as well be used.

Last year, Congress appropriated $10 million more than the Administration request to procure nearly 30 more ASOS units. If the past is an accurate indicator, these units will sit idle until FAA finds the funds to commission them. In essence, what we are doing is purchasing technology with great potential but fraught with high maintenance costs and are going to be unusable for a number of years when, it is my understanding that there are other alternatives that cost less and can be used immediately. In fact, I understand that one of these alternatives, the Automated Weather Observing System (AWOS) is very popular in many states, including the Chairman's home state of Alabama.

I would draw my colleague's attention to the action taken yesterday by the House Committee on Appropriations. In its companion to the bill before us, that panel declined to fund any of these systems for the coming fiscal year but noted the Senate Committee's action. The House report language says that both systems (AWOS and ASOS) are "meritorious" and takes the strong position that if additional funding beyond the Administration's request is provided in the final conference action, that "an equitable distribution" of the additional funding should be provided for both systems.

I strongly support the action taken by our House colleagues and urge my good friend, the Chairman of the Subcommittee to join me to inject fairness, cost-effectiveness and competition into this program.

Mr. SHELBY. I thank the Senator from Ohio for his statement. I have listened with interest to his remarks and recognize his concerns. The Senator from Ohio has raised very compelling arguments and I will carefully consider his request during the conference committee's deliberations.

Mr. KOHL. I would like to engage Senator SHELBY in a colloquy with respect to an issue of importance to my

State of Wisconsin and the entire Midwest Region. As you may know, Wisconsin and eight other Midwestern states, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska and Ohio, working with Amtrak, have undertaken planning studies of a Midwest regional rail system to be hubbed in Chicago. The regional rail system would provide modern service on all existing rail corridors as well as several new corridors within the nine-state region. By connecting major Midwestern metropolitan areas, ridership and revenue projections have revealed that the rail network would operate without subsidy, enhance regional economic development and increase mobility in corridors with congested highway systems. To date, the states and Amtrak have contributed $468,500. The Federal Railroad Administration has also contributed $200,000 to this endeavor. I understand that the Committee grappled with unique constraints this year due to the firewalls created by the Transportation Equity Act, the so-called TEA-21. Implementation planning funds are needed, however, to move this important project forward. For this reason, I do hope that I can count on your assistance if additional resources become available in conference and as this process moves forward.

Mr. SHELBY. I know this initiative was of interest to the senior Senator from Wisconsin and that you had requested funds so that your State and the other Midwestern states could complete detailed implementation planning. As you know, we were unable to fund high speed rail corridor planning studies in the Senate Transportation Appropriations bill due to budget constraints. However, I will work with you and if we revisit this issue in conference and take another look at corridor planning studies, I assure you that the Midwest Rail initiative will receive every consideration.

Mr. HOLLINGS. Mr. President, I rise to briefly discuss a provision in this legislation which I was pleased to sponsor. The interstate network of railroads faces several problems. As you are aware, several areas in the United States currently experience serious rail freight congestion. We frequently hear of delays on the delivery of goods for two to three weeks because of rail congestion. With more train traffic, there has also been an increase in rail related accidents. There is no comprehensive system which manages the interface between trains and cars at the huge number of highway crossings in the United States. In South Carolina alone, there are 32,000 crossings. This situation is compounded in many parts of the country. Congestion is worsened and safety is jeopardized because passenger trains, high-speed trains, and freight trains all use the same track.

Unlike the national tracking of air traffic that assures millions of safe passenger air miles each year, comprehensive automated management and control of movement and location in the rail industry does not exist. The Transportation Safety Research Alliance, a non-profit public/private partnership which includes industry and research institutions, is seeking to develop an advanced, integrated technology system that would provide direction, movement, and highway crossing control for the rail freight industry. Without such a system, we are going to experience more accidents endangering the public safety and more delays to shippers and consumers that harm the Nation's commerce. This bill includes language directing the Federal Railroad Administration to provide $500,000 towards the development of this project. I want to thank the Subcommittee Chairman, Senator SHELBY, and the Ranking Member, Senator LAUTENBERG, for including this language. I appreciate your leadership in the Conference to ensure that this provision is included in the Conference Report.

Mr. SANTORUM. I also wish to express my support for this provision. One of the key industry members of the Transportation Safety Alliance, Union Switch and Signal, is headquartered in Pittsburgh, Pennsylvania. They manufacture signaling automation and control systems for railroads, and are at the cutting edge of an industry which can help our country achieve greater rail safety in the 21st century.

Senator LAUTENBERG. The issue of rail safety in this country is of great importance to me. I appreciate your comments, and will work to keep this provision in the Conference Report.

ADVANCED CIVIL SPEED ENFORCEMENT SYSTEMS UPGRADE

Mr. BIDEN. Mr. President, I say to my good friend and colleague, the distinguished Chairman of the Finance Committee, that I note with interest that the report on the bill before us provides funds in the amount of $1 million for the upgrade of safety systems on all locomotives operating between New Haven, CT, and Boston, MA.

Mr. LAUTENBERG. That is correct.

Mr. ROTH. We have a question for the distinguished Ranking Member of the Transportation Appropriations Subcommittee. Is it the intent of this legislation that installation of the advanced civil enforcement systems be performed at the facility that has the expertise, capability, and prior experience to assemble and test cab signal equipment?

Mr. BIDEN. These new speed monitoring systems are important to the operation of the Northeast Corridor and we want to ensure that the installation is done at a facility where the workers have the skills and experience to do the job right.

Mr. LAUTENBERG. That is our intent; that is the facility that should do the job.

PORTLAND LIGHT RAIL FUNDING

Mr. WYDEN. Mr. President, I would like to engage the Chairman and Ranking Member of the Transportation Appropriations Subcommittee in a colloquy to clarify the funding provided for Portland Light Rail. The Committee Report on the Transportation Appropriations Bill has a single line item for the Portland Westside and South-North Light Rail projects. However, the Committee report description is ambiguous as to how the funding provided may be used. The description reads:

> Portland Westside and south-north LRT projects.—The Committee recommends $26,700,000 for the Portland Westside LRT project. . . .

The report then goes on to describe both projects. It is the Committee's intention to provide this funding for both the Westside and south-north project?

Mr. SHELBY. Yes. The Committee intends the funding to be available for both projects.

Mr. WYDEN. I thank the Chairman for this clarification. I would also ask whether the Committee intends to allow the $26.7 million amount provided for Portland light rail to be utilized either for completion of the Westside project or final design and right-of-way acquisition for the south-north project?

Mr. LAUTENBERG. Yes. The Committee intends this funding to be available for either of these purposes.

Mr. WYDEN. I thank the distinguished Chairman and Ranking Member for their assistance in providing funding for both of these important transit projects.

CHEHALIS I-5 FLOOD CONTROL PROJECT

Mr. GORTON. Mr. Chairman, I would like to bring to your attention a project that is of utmost importance to Southwest Washington state, the Chehalis I-5 Flood Control Project. You were gracious enough to include $250,000 for this project in the manager's amendment in full committee, and I would like to thank you for your attention to this matter. Unfortunately, this project, which will ultimately cost taxpayers $18 million less than the initial option proposed by the Washington State Department of Transportation, will require $2.5 million in FY 1999 to wade through the myriad of permits that must be completed before this project can move forward. I would like to work with you in conference to ensure that this project has the Federal support to become a reality.

Mr. SHELBY. I appreciate your bringing this matter to my attention. I look forward to working with you in conference to ensure that an innovative project such as the Chehalis I-5 Flood Control Project receives the federal commitment that it deserves.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. 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. 3327

(Purpose: To provide additional resources for the United States Coast Guard for drug interdiction efforts)

Mr. DEWINE. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. BOND, Mr. GRASSLEY and Mr. FAIRCLOTH, proposes an amendment numbered 3327.

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

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

The amendment is as follows:

Beginning on page 8 of the bill, in line 17 after the colon insert: *Provided further*, That not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike "$165,215,000" and insert "$158,468,000";

On page 9 of the bill, in line 2, strike $388,693,000" and insert "$426,173,000";

On page 9 of the bill, in line 4, strike $215,473,000" and insert "$234,553,000";

On page 9 of the bill, in line 7, strike "$46,131,000" and insert "$55,131,000";

On page 9 of the bill, in line 9 strike "$35,389,000" and insert "$44,789,000";

On page 77 of the bill, in line 15, strike "$10,500,000" and insert "$17,247,000".

Mr. DEWINE. Mr. President, yesterday 15 of my colleagues and I introduced the Western Hemisphere Drug Elimination Act, legislation that would restore balance to our comprehensive antidrug strategy. My friend from Florida, Congressman BILL MCCOLLUM, is leading a similar effort in the House of Representatives.

This legislation is a $2.6 billion effort—$2.6 billion over the next 3 years. This is an outline. It is a blueprint to really restore balance to our antidrug effort. Unfortunately, over the years, the effort that we are putting in in regard to interdiction has gone down significantly as a percentage of our total budget. And we need to restore that balance.

This legislation is a $2.6 billion, 3-year investment to reduce the amount of drugs coming into this country and to drive up the cost of drug trafficking. Taken together, this strategy will drive up the price of drugs and, most importantly, then drive down the incidence of the use of drugs in our country. This is an important investment in the future of America and the future of our children.

Today, one day later, after having introduced this bill, the Senate will, I hope, take the first step towards realizing that investment. I am pleased to have just sent to the desk an amendment offered along with Senator COVERDELL, Senator GRAHAM of Florida, Senator BOND, and Senator GRASSLEY, an amendment that will provide much needed resources for the U.S. Coast Guard, resources that will increase their drug interdiction capability.

Specifically, Mr. President, our amendment would accomplish two goals. One, it would increase the funds available for equipment devoted to drug interdiction by approximately $37.5 million. Second, the amendment would set aside resources needed to restore a much needed drug interdiction operation in the Caribbean.

Mr. President, I see the distinguished chairman of the Transportation Subcommittee, Senator SHELBY, on the floor. I would like to engage in a colloquy with him to go over the particulars of the bipartisan amendment that I have offered.

First, I would like, before I do that, to discuss the $37.5 million secured for additional resources.

Specifically, Mr. President, with respect to sea-based resources, our amendment would enable the Coast Guard to reactivate one T-AGOS vessel and acquire two additional T-AGOS vessels. These vessels, originally Navy submarine hunters, have proved to be quite valuable for counterdrug operations because they have the room needed for command and control equipment, such as sensors and communications equipment.

In addition, the amendment also would enable the Coast Guard to acquire a maritime interdiction patrol boat and satellite communications equipment for patrol boats.

With respect to Coast Guard air operations, our amendment would allow for the reactivation of three maritime control aircraft. These are jet aircraft that would be used by the Coast Guard to track and pursue drug traffickers.

Finally, our amendment would allow for the acquisition of forward-looking infrared systems. This technology enables the Coast Guard to track heat signatures in the water.

Why is this important? Well, drug traffickers, drug runners in the Caribbean, use what we call, and they call, "go-fast" boats, boats that are too fast for detection in tracking using conventional radar. The infrared systems can detect "go-fast" boats and thus allow for more effective aerial surveillance.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I appreciate the effort of the Senator from Ohio, first, in offering this very important amendment and, second, in briefly tonight explaining to the Senate the kinds of resources that are to be acquired with the additional assistance he has been talking about. I also commend him for his diligence in seeking additional funds for the Coast Guard dealing with interdiction.

Mr. DEWINE. I thank my friend from Alabama very much for his very kind words and for his leadership in assisting with this amendment.

There is one additional component, Mr. President, of this amendment that I would like to discuss briefly this evening, and that is the set-aside that will enable the Coast Guard to restore a very effective drug interdiction program in the Caribbean.

My interest in drug interdiction activities in the Caribbean stems, in part, from my interest in the island nation of Haiti. The hard reality is that the Caribbean—from Haiti to the Bahamas—is fast becoming once again a major illegal drug transit route.

On one of my recent trips, Mr. President, I saw that, in particular, Haiti is becoming an attractive rest-stop on the cocaine highway. It is strategically located about halfway between the source country, Colombia, and the destination country, the United States. Haiti law enforcement, though slowly getting better, is, at this point, utterly unequipped, unprepared to put a dent in this drug trade.

What is more, the Coast Guard fleet consists of a handful of boats. They are making progress. They have certainly a long way to go. As the poorest country in the hemisphere, Haiti is extremely vulnerable to the kind of bribery and corruption that the drug trade needs in order to flourish. Not surprisingly, the level of drugs moving now through Haiti has dramatically increased.

According to a U.S. Government interagency assessment on cocaine movement, in 1996 between 5 and 8 percent of the cocaine coming into the United States passed through Haiti. By the third quarter of 1997, the percentage jumped to 12 percent, and increased yet again to 19 percent by the end of that year.

Accordingly, we responded to this crisis with an interdiction strategy called Operation Frontier Lance—Operation Frontier Lance—which utilized Coast Guard cutters, speedboats, and helicopters, all to detect and capture drug dealers on a 24-hour-per-day basis.

Incidentally, this operation was modeled after another successful interdiction effort that took place off the coast of Puerto Rico called Operation Frontier Shield.

Mr. President, last May I boarded the U.S. Coast Guard Cutter *Dallas* and observed Operation Frontier Lance and observed the men and women who are on the front line—and were on the front line—carrying out our antidrug operation. And I came away thinking

that this is the kind of effort, the kind of coordination of resources, that we need not just off the coast of Haiti and the Dominican Republic but also throughout the drug trafficking routes throughout the entire Caribbean.

Mr. President, unfortunately—unfortunately—funding for Frontier Lance ran out last month. This once effective roadblock on the cocaine highway is no more. With our amendment, we can get that operation and/or similar operations in the region back up and running.

Specifically, our amendment secures operations funding that will allow Operation Frontier Lance or similar operations to resume. And with the additional resources I described earlier, the Coast Guard has an even greater ability to flex its drug interdiction muscle in the entire region.

Mr. President, I express my thanks again to the chairman and the ranking member of the Transportation Subcommittee, Senator SHELBY and Senator LAUTENBERG, for their very effective efforts to assist me and the distinguished list of cosponsors of this amendment. I also send my thanks to the staff of the subcommittee for their effort. Their effort was great and it was first rate. This would not have happened without them.

As I said at the beginning of my statement, Mr. President, this amendment today is a first step. I expect that there will be many more steps in the future, steps that are needed if we are going to restore a truly balanced, truly effective drug control strategy.

This amendment represents a bipartisan effort to make a targeted and very specific investment, an investment in stopping drugs before—before—they reach America. It will take similar efforts over the course of the next 3 years to bring our drug strategy back into balance and, most important, back on the course of reducing drug use in our homes, our schools, and our communities.

I thank the Chair and yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the Senator from Ohio presents, I think, very effectively the case for continuing the efforts that we have had in the past—some quite successful—to intercept the drug trafficking, and to make sure that we do not let down our guard, and to maintain the facilities and personnel that we need to do it.

The thing I am concerned about—and I commend the Senator from Ohio for bringing this to our attention; we will be looking at this over the next period of time—the offset for this amendment, if I am not mistaken, is proposed to come out of the administrative costs at DOT; am I correct in that?

Mr. DEWINE. That is correct.

Mr. LAUTENBERG. That account has been severly tested. We will look closely to see if we can put together the package that the Senator from Ohio is recommending.

I do send up a note of caution as we look at it. We have been warned that we could face a RIF, reduction in force, at DOT at the levels currently in the bill for administrative expenses.

The chairman and I have been very careful to try to make sure that the dollars we expend are those that are most effective in providing transportation facilities, helping the Coast Guard, helping FAA, and we have been all along trying to reduce the administrative side, the travel side, all of those things. We are both staunch supporters of the Coast Guard with our coastal States and in deep appreciation for what the Coast Guard has done.

The drug interdiction mission I talked about earlier today, and I am prepared on this side to accept the DeWine-Graham amendment, but I have to know that the chairman and I are going to take a fresh look at DOT's administrative costs in conference.

Mr. SHELBY. Mr. President, I want to state to my colleagues tonight that I believe myself, as I said earlier, that what Senator DEWINE is offering to do makes a lot of sense. I will work with Senator DEWINE and Senator LAUTENBERG in the conference when we get into the seriousness of what we can do with money. Interdiction here dealing with drugs should be and will be one of our No. 1 priorities.

Mr. DEWINE. Mr. President, let me thank both of my colleagues, the ranking member and the chairman, for their great cooperation. I understand my colleague has expressed his concerns about the money situation. I look forward to working with both Members in regard to that.

I appreciate your concern for the Coast Guard. I believe this is money very well spent. I think the Coast Guard knows what to do with its money. They know how to get the job done. I have been out literally in the field or on the sea with them to see what they can do. They do a good job getting it done.

I understand the concerns with regard to the money.

I don't know if there is any further debate.

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

The amendment (No. 3327) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3328 AND 3329, EN BLOC

Mr. SHELBY. Mr. President, I have two amendments, one on behalf of Senator MCCAIN, and one on behalf of Senator SPECTER. It is my understanding they have been cleared. I send them to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments en bloc numbered 3328 and 3329.

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

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

The amendments en bloc are as follows:

AMENDMENT NO. 3328

(Purpose: To ensure that the policies and goals of the Amtrak Reform and Accountability Act of 1997 will be met, and for other purposes)

At the appropriate place insert:

SEC. . The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to P.L. 105–134; No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997; *Provided further*, That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles; *Provided further*, That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the Amtrak Reform Council and the Senate Committee on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

AMENDMENT NO. 3329

(Purpose: To clarify Delaware River Port Authority to toll collection authority)

At the appropriate place in the bill, insert the following:

SEC. . Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the act of July 17, 1952 (66 Stat. 571, chapter 922), are each amended in the proviso—

(1) by striking "That" and all that follows through "the collection of" and inserting "That the commission may collect"; and

(2) by striking ",shall cease" and all that follows through the period at the end and inserting a period.

Mr. SHELBY. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. LAUTENBERG. We agree to the amendments.

Mr. SHELBY. The amendments have been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3328 and 3329) were agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

DELAWARE RIVER, PENNSYLVANIA ITS DEPLOYMENT PROJECT

Mr. SPECTER. Mr. President, I have sought recognition to comment on the inclusion in the bill of $4 million at my request for the deployment of an intelligent transportation system project across the Delaware River. I sought these funds at the request of the Delaware River Port Authority, which is implementing electronic toll and traffic management systems for the Ben Franklin, Walt Whitman, Commodore Barry, and Betsy Ross Bridges in the Pennsylvania-New Jersey-Delaware region, which are operated and maintained by the Authority and serve thousands of drivers each day, including substantial commercial traffic.

I believe that it is critical that we do all that is possible to alleviate traffic congestion on these important river crossings, for the sake of improving the quality of life of area residents and others who drive on the bridges and to reduce air pollution in Philadelphia and its suburbs.

I thank the Chairman for including funds for deployment of an ITS system over the Delaware River, which will benefit both Pennsylvania and New Jersey.

Mr. SHELBY. I am familiar with the Delaware River project discussed by my colleague from Pennsylvania and would note that the Delaware River Port Authority project is particularly well-suited for consideration by the Federal Highway Administration for funding under this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3330 THROUGH 3335 AND 3323, AS MODIFIED, EN BLOC

Mr. SHELBY. Mr. President, on behalf of myself and Senator LAUTENBERG, I send—and I will name them—a number of amendments to the desk that have been agreed to.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 3330 through 3335 and 3323, as modified.

Mr. SHELBY. I ask unanimous consent that the Senate consider these amendments en bloc.

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

Mr. SHELBY. Among these amendments is an amendment on behalf of the Presiding Officer, Mr. FRIST, an amendment on behalf of Senator ABRAHAM, an amendment on behalf of Senator LEVIN, an amendment on behalf of Senators LAUTENBERG and KERRY of Massachusetts, an amendment on behalf of Senators BOND, KOHL and JOHNSON, an amendment on behalf of Senator DURBIN, and an amendment on behalf of Senator BURNS.

The PRESIDING OFFICER. Is there further debate on the amendments?

Mr. LAUTENBERG. No. We support the amendments and urge their adoption.

Mr. SHELBY. I urge the amendments be adopted en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

Without objection, the amendments are agreed to.

The amendments (Nos. 3330 through 3335 and 3323) were agreed to, en bloc, as follows:

AMENDMENT NO. 3330

On page 22 of the bill, in line 1, strike "State of Michigan," and insert: "Oakland County, MI,".

On page 89 of the bill, in line 24, before the figure "2,700,000" insert the following: $200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;".

On page 92 of the bill, after line 25, insert the following:

SEC. . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading, by inserting ", Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

In amendment No. 3324, in line 10, strike "determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska" and insert the following: "study rural access issues in Alaska".

AMENDMENT NO. 3331

On page 30, after line 11, before the period insert the following: *Provided further;* That of the funds made available under Sec. 5308, up to $10 million may be used for the projects that include payments for the incremental costs of biodiesel fuels: *Provided further;* That such incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternatives."

AMENDMENT NO. 3332

(Purpose: To prohibit smoking on scheduled domestic and foreign airline flight segments taking off from or landing in the United States)

At the appropriate place, insert the following:

SEC. . PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 of title 49, United States Code, is amended to read as follows:

"§ 41706. Prohibitions against smoking on scheduled flights

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on an after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary of Transportation shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated by the Secretary and the objecting foreign government through a bilateral negotiation process.

"(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

AMENDMENT NO. 3333

At the appropriate place, insert the following:

SEC. . HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

AMENDMENT NO. 3334

On page 79 of the bill, in line 21 before the period, insert: "*Provided further*, That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration: *Provided further*, That the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, U.S.C.) that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance.

AMENDMENT NO. 3335

(Purpose: To require the National Transportation Safety Board to reimburse the State of New York and local counties in New York for certain costs associated with the crash of TWA Flight 800)

At the appropriate place in title III, insert the following:

SEC. 3 . REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

AMENDMENT NO. 3323, AS MODIFIED

(Purpose: To require the Secretary of Transportation to ensure that there is sufficient signage directing visitors to cemeteries of the National Cemetery System, and for other purposes)

At the appropriate place in title III, insert the following:

SEC. 3 . SIGNAGE ON HIGHWAYS WITH RESPECT TO THE NATIONAL CEMETERY SYSTEM.

(a) DEFINITIONS.—In this section:

(1) FEDERAL-AID HIGHWAY.—The term "Federal aid highway" has the meaning given that term in section 101 of title 23, United States Code.

(2) NATIONAL CEMETERY SYSTEM.—The term "National Cemetery System" means the National Cemetery System, which is managed by the Secretary of Veterans Affairs.

(3) STATE.—The term "State" has the meaning given that term in section 101 of title 23, United States Code.

(b) FEDERAL-AID HIGHWAYS.—The Secretary of Transportation may encourage States to take such action as may be necessary to ensure that, for each cemetery of the National Cemetery System that is located in the proximity of any Federal-aid highway, there is sufficient and appropriate signage along that highway to direct visitors to that cemetery.

(c) STATE HIGHWAYS.—Nothing in subsection (b) is intended to affect the provision of signage by a State along a State highway to direct visitors to a cemetery of the National Cemetery System.

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

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

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I know of no further amendments to the bill.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

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

Mr. SHELBY. Mr. President, I ask unanimous consent that the yeas and nays be ordered on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SHELBY. I ask unanimous consent that the vote occur on passage at 9:15 a.m. on Friday, and that paragraph 4 of rule XXII be waived.

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

Mr. SHELBY. In light of this agreement, there will be no further votes tonight. The next vote is scheduled for 9:15 a.m. Friday morning.

Mr. President, I ask unanimous consent that when the Senate completes action on S. 2307, the fiscal year 1999 transportation appropriations bill, that the bill not be engrossed and be held at the desk.

I further ask that when the Senate receives the House of Representatives companion measure, the Senate immediately proceed to its consideration; that all after the enacting clause be stricken and the text of S. 2307, as passed, be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed, the motion to reconsider the vote be laid upon the table, that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate, and that the foregoing occur without any intervening action or debate.

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

Mr. SHELBY. I further ask unanimous consent that when the Senate passes the House companion measure, as amended, the passage of S. 2307 be vitiated and the bill be indefinitely postponed.

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

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

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

SENATOR TIM HUTCHINSON RECEIVES GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, yesterday, Senator HUTCHINSON presided his 100th hour of this Congress and, therefore, is the latest recipient of the Senate's Golden Gavel Award.

Senator HUTCHINSON and his scheduling staff have consistently adjusted their schedule to assist whenever presiding difficulties have occurred. For these honorable efforts and for the Senator's continued commitment to his presiding duties, we extend our thanks and congratulations.

CORRECTION OF THE RECORD

Mr. BYRD. Mr. President, in my speech of July 16, 1998, titled "Anniversary of the Great Compromise," on page 15645, in the first column thereof, the word "unilateral" in the second line of the second full paragraph should be "unicameral." "Unicameral," instead of "unilateral."

I ask unanimous consent the permanent RECORD show the correction.

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

KIDS AND SEX

Mr. BYRD. Mr. President, I rise today to express my shock and utter amazement regarding the cover story in the June 15 issue of Time magazine. It is entitled "Everything your kids already know about sex."

Now, I know that any octogenarian like myself is going to be immediately viewed as a dinosaur and a prude on a subject such as this, but I tell you that this article should alarm every parent and shake up every community in America.

The piece opens up with an account of a 14-year-old couple, who walk into a Teen Center in Salt Lake City, Utah (of all places) and inquire about steps which they might take to heighten their arousal during sex. This is a 14-year-old couple, I remind Senators. It continues with example after example of youngsters as young as 9 years of age who are experienced sexually, and who have had multiple sexual partners before ever reaching the legal age of consent. Here we are talking about youngsters as young as 9 years of age. Many of these sexually new-age babies (and that's what they are, babies) claim that they get all the information they need to be proficient in the sexual world through such prime time TV shows as "Dawson Creek," which boasts of a character, Jen, who loses her virginity at 12, while drunk, or another favorite show, "Buffy the Vampire Slayer", in which Angel, a male vampire, "turned bad" after having sex with the 17-year-old Buffy.

What, in the name of common sense, I ask, is going on in this Nation? Why are we letting our kids watch this morally degrading, thoroughly demeaning, junk on the airwaves? Why in heaven's name don't the purveyors of such trash feel any sense of responsibility toward the youth of our nation?

Have the parents of these kids just given up trying to guide and protect them and teach them some sense of moral responsibility about their own bodies? I am afraid I have no answers, only legions of questions about what sort of a society is going to evolve from all of this unhealthy glorification of sex.

I know this much. We have got to find a way to inject some measure of spirituality into our culture, some sort of reverence for something besides erotica, and we have got to find some kind of counterpoint to the cheap,

amoral, directionless, thoroughly disgusting popular mores which are blasted daily at our kids over the airwaves.

I believe one thing we could do in this Congress is to find an acceptable way to return prayer to our schools and to encourage religious values in the life of this nation.

A lot of people who believe this have been driven into a closet. They won't say these things probably because they will be viewed as old fuddy-duddies and as being behind the times and old-fashioned and all that. I know of no other course which might provide a strong counterpoint to the hedonistic viewpoint which so dominates everyday American life.

All of our poor children face the prospect of growing up, do they not, with no appreciation of anything but the seamy side of life and no understanding of the spiritual values that so enrich and refine human existence and have played such a vital and important and prominent part in the history of our country, history of our Nation since its beginning?

Does no one worry about the steady diet of crass perversion we are feeding to our youngsters? Surely the American people expect us to address the moral bankruptcy that is eating away at common decency in this Nation. We have spent weeks publicly gnashing our teeth about our children's health. We hear these speeches all the time here about our children's health, and rightly so. Rightly so. And the evils of smoking, and again rightly so. We should. But what about their mental health? What about their spiritual health? I hear little said on these subjects. What about the sexually transmitted diseases which such casual sexual behavior fosters? I tell you, I am worried, and I believe we need to come to grips with the ugly reality of a society that is sliding further into decadence and decay right before our very eyes.

On February 6, of last year, I introduced a constitutional amendment that could foster voluntary prayer in our schools and in public assemblies. I believe that it may do so without doing violence to the prerogatives of those who, as is their right, do not wish to pray. The amendment is simple, and I read it: "Nothing in this Constitution, or amendments thereto, shall be construed to prohibit or require voluntary prayer in public schools, or to prohibit or require voluntary prayer at public school extracurricular activities."

I hope that the Judiciary Committee of the Senate—and I urge the Judiciary Committee of the Senate—will at least hold hearings on this matter. I am sure they could find some time on the calendar to hold hearings on this important subject, if not this year, certainly next year.

We have reached a point of crisis in our land, and to continue to ignore the mounting evidence is blatantly irresponsible on the part of those of us who claim to be leaders.

I know that there are concerns about the first amendment, and I hesitate to offer an amendment that would, in effect, amend the first amendment in some respect, but I am worried a great deal more about the destruction of our Nation. As far as I am concerned, if something about the first amendment needed to be modified or changed to save this very Nation, then I am willing to at least discuss it and debate it and make a determination on whether we should. I do not view the first amendment as being absolutely sacrosanct. I am becoming very concerned about the trend that we see happening in this country and about the direction in which the Nation is going and in considerable measure because of some of the interpretations of the Constitution, some of the interpretations of the first amendment that we have seen emanating from our courts.

I urge all Members of the Senate and all parents to read the Time magazine piece and wake up and smell the coffee. The alarm bells are ringing all over America, and we have got to come to grips with what is happening and try to answer the call.

Now, I will not be around on this globe many more years perhaps, but I do have children and I have grandchildren. Incidentally, I have a grandson who acquired his Ph.D. in physics yesterday at the University of Virginia. And he has a brother just 3 years older than himself who secured his Ph.D. in physics from the University of Virginia 3 years ago. So these are outstanding examples of the fine young people we have in this country, wholesome young people. They are not all bad, by any means. Most of them are not. But we do not often enough hear about the good things our young people are doing. They are in the laboratories. They are in the libraries. They are studying, trying to get ahead, and we are not as aware of what they are doing as we are of those who make mistakes, and we all make mistakes, but of those who perhaps are not doing as well.

I am concerned about the future of the Nation. I am concerned for my own posterity's sake, as I say. I do not have the answers. A blind man can see that something bad is happening to our society. One does not have to travel far to find out what is causing a large part of it. One has only to go to the living room and turn on that tube and watch for a day the junk that has been programmed. They will see from what source many of our problems are emanating.

I ask unanimous consent that the article entitled "Where'd You Learn That?" be printed in the RECORD.

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

[From Time Magazine]

WHERE'D YOU LEARN THAT?—AMERICAN KIDS ARE IN THE MIDST OF THEIR OWN SEXUAL REVOLUTION, ONE LEAVING MANY PARENTS FEELING CONFUSED AND VIRTUALLY POWERLESS

(By Ron Stodghill II)

The cute little couple looked as if they should be sauntering through Great Adventure or waiting in line for tokens at the local arcade. Instead, the 14-year-olds walked purposefully into the Teen Center in suburban Salt Lake City, Utah. They didn't mince words about their reason for stopping in. For quite some time, usually after school and on weekends, the boy and girl had tried to heighten their arousal during sex. Flustered yet determined, the pair wanted advice on the necessary steps that might lead them to a more fulfilling orgasm. His face showing all the desperation of a lost tourist, the boy spoke for both of them when he asked frankly, "How do we get to the G-spot?"

Whoa. Teen Center nurse Patti Towle admits she was taken aback by the inquiry. She couldn't exactly provide a road map. Even more, the destination was a bit scandalous for a couple of ninth-graders in the heart of Mormon country. But these kids had clearly already gone further sexually than many adults, so Towle didn't waste time preaching the gospel of abstinence. She gave her young adventurers some reading material on the subject, including the classic women's health book Our Bodies, Ourselves, to help bring them closer in bed. She also brought up the question of whether a G-spot even exists. As her visitors were leaving, Towle offered them more freebies: "I sent them out the door with a billion condoms."

G-spots. Orgasms. Condoms. We all know kids say and do the darndest things, but how they have changed! One teacher recalls a 10-year-old raising his hand to ask her to define oral sex. He was quickly followed by an 8-year-old girl behind him who asked, "Oh, yeah, and what's anal sex?" These are the easy questions. Ronda Sheared, who teaches sex education in Pinellas County, Fla., was asked by middle school students about the second kweif, which the kids say is the noise a vagina makes during or after sex. "And how do you keep it from making this noise?"

There is more troubling behavior in Denver. School officials were forced to institute a sexual-harassment policy owing to a sharp rise in lewd language, groping, pinching and bra-snapping incidents among sixth-, seventh- and eighth-graders. Sex among kids in Pensacola, Fla., became so pervasive that students of a private Christian junior high school are now asked to sign cards vowing not to have sex until they marry. But the cards don't mean anything, says a 14-year-old boy at the school. "It's broken promises."

It's easy enough to blame everything on television and entertainment, even the news. At a Denver middle school, boys rationalize their actions this way: "If the President can do it, why can't we?" White House sex scandals are one thing, but how can anyone avoid Viagra and virility? Or public discussions of sexually transmitted diseases like AIDS and herpes? Young girls have lip-synched often enough to Alanis Morissette's big hit of a couple of years ago, You Oughta Know, to have found the sex nestled in the lyric. But it's more than just movies and television and news. Adolescent curiosity about sex is fed by a pandemic openness about it—in the school-yard, on the bus, at home when no adult is watching. Just eavesdrop at the mall one afternoon, and you'll hear enough pubescent sexcapades to pen the next few episodes

of Dawson's Creek, the most explicit show on teen sexuality, on the WB network, Parents, always the last to keep up, are now almost totally pre-empted. Chris (not his real name), 13, says his parents talked to him about sex when he was 12 but he had been indoctrinated earlier by a 17-year-old cousin.

In any case, he gets his full share of information from the tube. "You name the show, and I've heard about it. Jerry Springer, MTV, Dawson's Creek, HBO After Midnight . . ." Stephanie (not her real name), 16, of North Lauderdale, Fla., who first had sex when she was 14, claims to have slept with five boyfriends and is considered a sex expert by her friends. She says, "You can learn a lot about sex from cable. It's all mad-sex stuff." She sees nothing to condemn. "If you're feeling steamy and hot, there's only one thing you want to do. As long as you're using a condom, what's wrong with it? Kids have hormones too."

In these steamy times, it is becoming largely irrelevant whether adults approve of kids' sowing their oats—or knowing so much about the technicalities of the dissemination. American adolescents are in the midst of their own kind of sexual revolution—one that has left many parents feeling confused, frightened and almost powerless. Parents can search all they want for common ground with today's kids, trying to draw parallels between contemporary carnal knowledge and an earlier generation's free-love crusades, but the two movements are quite different. A desire to break out of the old-fashioned strictures fueled the '60s movement, and its participants made sexual freedom a kind of new religion. That sort of reverence has been replaced by a more consumerist attitude. In a 1972 cover story, TIME declared, "Teenagers generally are woefully ignorant about sex." Ignorance is no longer the rule. As a weary junior high counselor in Salt Lake City puts it, "Teens today are almost nonchalant about sex. It's like we've been to the moon too many times."

The good news about their precocious knowledge of the mechanics of sex is that a growing number of teens know how to protect themselves, at least physically. But what about their emotional health and social behavior? That's a more troublesome picture. Many parents and teachers—as well as some thoughtful teenagers—worry about the desecration of love and the subversion of mature relationships. Says Debra Haffner, president of the Sexuality Information and Education Council of the United States: "We should not confuse kids' pseudo-sophistication about sexuality and their ability to use the language with their understanding of who they are as sexual young people or their ability to make good decisions."

One ugly side effect is a presumption among many adolescent boys that sex is an entitlement—an attitude that fosters a breakdown of respect for oneself and others. Says a seventh-grade girl: "The guy will ask you up front. If you turn him down, you're a bitch. But if you do it, you're a ho. The guys are after us all the time, in the halls, everywhere. You scream, 'Don't touch me!" but it doesn't do any good." A Rhode Island Rape Center study of 1,700 sixth- and ninth-graders found 65% boys and 57% of girls believing it acceptable for a male to force a female to have sex if they've been dating for six months.

Parents who are aware of this cultural revolution seem mostly torn between two approaches: preaching abstinence or suggesting prophylactics—and thus condoning sex. Says Cory Hollis, 37, a father of three in the Salt Lake City area: "I don't want to see my teenage son ruin his life. But if he's going to do it, I told him that I'd go out and get him the condoms myself." Most parents seem too squeamish to get into the subtleties of instilling sexual ethics. Nor are schools up to the job of moralizing. Kids say they accept their teachers' admonitions to have safe sex but tune out other stuff. "The personal-development classes are a joke," says Sarah, 16, of Pensacola. "Even the teacher looks uncomfortable. There is no way anybody is going to ask a serious question." Says Shana, a 13-year-old from Denver: "A lot of it is old and boring. They'll talk about not having sex before marriage, but no one listens. I use that class for study hall."

Shana says she is glad "sex isn't so taboo now, I mean with all the teenage pregnancies." But she also says that "it's creepy and kind of scary that it seems to be happening so early, and all this talk about it." She adds, "Girls are jumping too quickly. They figure if they can fall in love in a month, then they can have sex in a month too." When she tried discouraging a classmate from having sex for the first time, the friend turned to her and said, "My God, Shana. It's just sex."

Three powerful forces have shaped today's child prodigies: a prosperous information age that increasingly promotes proudcts and entertains audiences by titillation; aggressive public-policy initiatives that loudly preach sexual responsibility, further desensitizing kids to the subject; and the decline of two-parent households, which leaves adolescents with little supervision. Thus kids are not only bombarded with messages about sex—many of them contradictory—but also have more private time to engage in it than did previous generations. Today more than half of the females and three-quarters of the males ages 15 to 19 have experienced sexual intercourse, according to the Commission on Adolescent Sexual Health. And while the average age at first intercourse has come down only a year since 1970 (currently it's 17 for girls and 16 for boys), speed is of the essence for the new generation. Says Haffner: "If kids today are going to do more than kiss, they tend to move very quickly toward sexual intercourse."

The remarkable—and in ways lamentable—product of youthful promiscuity and higher sexual IQ is the degree to which kids learn to navigate the complex hypersexual world that reaches our seductively to them at every turn. One of the most positive results: the incidence of sexually transmitted diseases and of teen age pregnancy is declining. Over the past few years, kids have managed to chip away at the teenage birthrate, which in 1991 peaked at 62.1 births per 1,000 females. Since then the birthrate has dropped 12%, to 54.7. Surveys suggest that as many as two-thirds of teenagers now use condoms, a proportion that is three times as high as reported in the 1970s. "We're clearly starting to make progress," says Dr. John Santelli, a physician with the Centers for Disease Control and Prevention's division of adolescent and school health. "And the key statistics bear that out." Even if they've had sex, many kinds are learning to put off having more till later; they are also making condom use during intercourse nonnegotiable; and, remarkably, the fleeting pleasures of lust may even be wising up some of them to a greater appreciation of love.

For better or worse, sex-filled television helps shape young opinion. In Chicago, Ryan, an 11-year-old girl, intently watches a scene from one of her favorite TV dramas, *Dawson's Creek*. She listens as the character Jen, who lost her virginity at 12 while drunk, confesses to her new love, Dawson, "Sex doesn't equal happiness. I can't apologize for my past." Ryan is quick to defend Jen. "I think she was young, but if I were Dawson, I would believe she had changed. She acts totally different now." But Ryan is shocked by an episode of her other favorite show, Buffy the Vampire Slayer, in which Angel, a male vampire, "turned bad" after having sex with the 17-year-old Buffy. "That kinda annoyed me," says Ryan. "What would have happened if she had had a baby? Her whole life would have been thrown out the window." As for the fallen Angel: "I am so mad! I'm going to take all my pictures of him down now."

Pressed by critics and lobbies, television has begun to include more realistic story lines about sex and its possible consequences. TV writers and producers are turning to groups like the Kaiser Family Foundation, an independent health-policy think tank, for help in adding more depth and accuracy to stories involving sex. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen pregnancy to coming to terms with a gay high school athlete. Says Matt James, a Kaiser senior vice president: "We're trying to work with them to improve the public-health content of their shows."

And then there's real-life television. MTV's Loveline, an hour-long Q.-and-A. show featuring sex guru Drew Pinsky (see accompanying story), in drawing raves among teens for its informative sexual content. Pinsky seems to be almost idolized by some youths. "Dr. Drew has some excellent advice," says Keri, an eighth-grader in Denver. "It's not just sex, it's real life. Society makes you say you've got to look at shows like Baywatch, but I'm sick of blond bimbos. They're so fake. Screenwriters ought to get a life."

With so much talk of sex in the air, the extinction of the hapless, sexually naive kid seems an inevitability. Indeed, kids today as young as seven to 10 are picking up the first details of sex even in Saturday-morning cartoons. Brett, a 14-year-old in Denver, says it doesn't matter to him whether his parents chat with him about sex or not because he gets so much from TV. Whenever he's curious about something sexual, he channel-surfs his way to certainty. "If you watch TV, they've got everything you want to know," he says. "That's how I learned to kiss, when I was eight. And the girl told me, 'Oh, you sure know how to do it.'"

Even if kids don't watch certain television shows, they know the programs exist and are bedazzled by the forbidden. From schoolyard word of mouth, eight-year-old Jeff in Chicago has heard all about the foul-mouthed kids in the raunchily plotted South Park, and even though he has never seen the show, he can describe certain episodes in detail. (He is also familiar with the AIDS theme of the musical Rent because he's heard the CD over and over.) Argentina, 16, in Detroit, says, "TV makes sex look like this big game." Her friend Michael, 17, adds, 'They make sex look like Monopoly or something. You have to do it in order to get to the next level."

Child experts say that by the time many kids hit adolescence, they have reached a point where they aren't particularly obsessed with sex but have grown to accept the notion that solid courtships—or at least strong physical attractions—potentially lead to sexual intercourse. Instead of denying it,

they get an early start preparing for it—and playing and perceiving the roles prescribed for them. In Nashville, 10-year-old Brantley whispers about a classmate, "There's this girl I know, she's nine years old, and she already shaves her legs and plucks her eyebrows, and I've heard she's had sex. She even has bigger boobs than my mom!"

The playacting can eventually lead to discipline problems at school. Alan Skriloff, assistant superintendent of personnel and curriculum for New Jersey's North Brunswick school system, notes that there has been an increase in mock-sexual behavior in buses carrying students to school. He insists there have been no incidents of sexual assault but, he says, "we've deal with kids simulating sexual intercourse and simulating masturbation. It's very disturbing to the other children and to the parents, obviously." Though Skriloff says that girls are often the initiators of such conduct, in most school districts the aggressors are usually boys.

Nan Stein, a senior researcher at the Wesley College Center for Research on Women, believes sexual violence and harassment is on the rise in schools, and she says, "It's happening between kids who are dating or want to be dating or used to date." Linda Osmundson, executive director of the Center Against Spouse Abuse in St. Petersburg, Fla., notes that "it seems to be coming down to younger and younger girls who feel that if they don't pair up with these guys, they'll have no position in their lives. They are pressured into lots of sexual activity." In this process of socialization, "no" is becoming less and less an option.

In such a world, schools focus on teaching scientific realism rather than virginity. Sex-Ed teachers tread lightly on the moral questions of sexual intimacy while going heavy on the risk of pregnancy or a sexually transmitted disease. Indeed, health educators in some school districts complain that teaching abstinence to kids today is getting to be a futile exercise. Using less final terms like "postpone" or "delay" helps draw some kids in, but semantics often isn't the problem. In a Florida survey, the state found that 75% of kids had experienced sexual intercourse by the time they reached 12th grade, with some 20% of the kids having had six or more sexual partners. Rick Colonno, father of a 16-year-old son and 14-year-old daughter in Arvada, Colo., views sex ed in schools as a necessary evil to fill the void that exists in many homes. Still, he's bothered by what he sees as a subliminal endorsement of sex by authorities. "What they're doing," he says, "is preparing you for sex and then saying, 'But don't have it.'"

With breathtaking pragmatism, kids look for ways to pursue their sex life while avoiding pregnancy or disease. Rhonda Sheared, the Florida sex-ed teacher, says a growing number of kids are asking questions about oral and anal sex because they've discovered that it allows them to be sexually active without risking pregnancy. As part of the Pinellas County program, students in middle and high school write questions anonymously, and, as Sheared says, "they're always looking for the loophole."

A verbatim sampling of some questions:

"Can you get AIDS from fingering a girl if you have no cuts? Through your fingernails?"

"Can you get AIDS from '69'?"

"If you shave your vagina or penis, can that get rid of crabs?"

"If yellowish stuff comes out of a girl, does it mean you have herpes, or can it just happen if your period is due, along with abdominal pains?"

"When sperm hits the air, does it die or stay alive for 10 days?"

Ideally, most kids say, they would prefer their parents do the tutoring, but they realize that's unlikely. For years psychologists and sociologists have warned about a new generation gap, one created not so much by different morals and social outlooks as by career-driven parents, the economic necessity of two incomes leaving parents little time for talks with their children. Recent studies indicate that many teens think parents are the most accurate source of information and would like to talk to them more about sex and sexual ethics but can't get their attention long enough. Shana sees the conundrum this way: "Parents haven't set boundaries, but they are expecting them."

Yet some parents are working harder to counsel their kids on sex. Cathy Wolf, 29, of North Wales, Pa., says she grew up learning about sex largely from her friends and from reading controversial books. Open-minded and proactive, she says she has returned to a book she once sought out for advice, Judy Blume's novel Are You There God? It's Me, Margaret, and is reading it to her two boys, 8 and 11. The novel discusses the awkwardness of adolescence, including sexual stirrings. "That book was forbidden to me as a kid," Wolf says. "I'm hoping to give them a different perspective about sex, to expose them to this kind of subject matter before they find out about it themselves." Movies and television are a prod and a challenge to Wolf. In Grease, which is rated PG and was recently re-released, the character Rizzo "says something about 'sloppy seconds,' you know, the fact that a guy wouldn't want to do it with a girl who had just done it with another guy. There's also another point where they talk about condoms. Both Jacob and Joel wanted an explanation, so I provided it for them."

Most kids, though, lament that their parents aren't much help at all on sexual matters. They either avoid the subject, miss the mark by starting the discussion too long before or after the sexual encounter, or just plain stonewall them. "I was nine when I asked my mother the Big Question," says Michael, in Detroit. "I'll never forget. She took out her driver's license and pointed to the line about male or female. 'That is sex,' she said." Laurel, a 17-year-old in Murfreesboro, Tenn., wishes her parents had taken more time with her to shed light on the subject. When she was six and her sister was nine, "my mom sat us down, and we had the sex talk," Laurel says. "But when I was 10, we moved in with my dad, and he never talked about it. He would leave the room if a commercial for a feminine product came on TV." And when her sister finally had sex, at 16, even her mother's vaunted openness crumbled. "She talked to my mom about it and ended up feeling like a whore because even though my mom always said we could talk to her about anything, she didn't want to hear that her daughter had slept with a boy."

Part of the problem for many adults is that they aren't quite sure how they feel about teenage sex. A third of adults think adolescent sexual activity is wrong, while a majority of adults think it's O.K. and, under certain conditions, normal, healthy behavior, according to the Alan Guttmacher Institute, a nonprofit, reproductive-health research group. In one breath, parents say they perceive it as a public-health issue and want more information about sexual behavior and its consequences, easier access to contraceptives and more material in the media about responsible human and sexual interaction. And in the next breath, they claim it's a moral issue to be resolved through preaching abstinence and the virtues of virginity and getting the trash off TV. "You start out talking about condoms in this country, and you end up fighting about the future of the American family," say Sarah Brown, director of the Campaign Against Teen Pregnancy. "Teens just end up frozen like a deer in headlights."

Not all kids are happy with television's usurping the role of village griot. Many say they've become bored by—and even sent—sexual themes that seem pointless and even a distraction from the information or entertainment they're seeking. "It's like everywhere," says Ryan, a 13-year-old seventh-grader in Denver, "even in *Skateboarding* [magazine]. It's become so normal it doesn't even affect you. On TV, out of nowhere, they'll begin talking about masturbation." Another Ryan, 13, in the eighth grade at the same school, agrees: "There's sex in the cartoons and messed-up people on the talk shows—'My lover sleeping with my best friend,' I can remember the jumping-condom ads. There's just too much of it all."

Many kids are torn between living up to a moral code espoused by their church and parents and trying to stay true to the swirling laissez-faire. Experience is making many sadder but wiser. The shame, anger or even indifference stirred by early sex an lead to prolonged abstinence. Chandra, a 17-year-old in Detroit, says she had sex with a boyfriend of two years for the first time at 15 despite her mother's constant pleas against it. She says she wishes she had heeded her mother's advice "One day I just decided to do it," she says. "Afterward, I was kind of mad that I let it happen. And I was sad because I knew my mother wouldn't have approved." Chandra stopped dating the boy more than a year ago and hasn't had sex since. "It would have to be someone I really cared about," she says. "I've had sex before, but I'm not a slut."

With little guidance from grownups, teens have had to discover for themselves that the ubiquitous sexual messages must be tempered with caution and responsibility. It is quite clear, even to the most sexually experienced youngsters, just how dangerous a little information can be. Stephanie in North Lauderdale, who lost her virginity two years ago, watches with concern as her seven-year-old sister moves beyond fuzzy thoughts of romance inspired by *Cinderella or Aladdin* into sexual curiosity. "She's always talking about pee-pees, she sees somebody on TV kissing and hugging or something, and she says, 'Oh, they had sex,' I think she's going to find out about this stuff before I did." She pauses. "We don't tell my sister anything," she says, "but she's not a naive child."

Mr. BYRD. I yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 22, 1998, the federal debt stood at $5,536,743,281,758.09 (Five trillion, five hundred thirty-six billion, seven hundred forty-three million, two hundred eighty-one thousand, seven hundred fifty-eight dollars and nine cents).

One year ago, July 22, 1997, the federal debt stood at $5,366,067,000,000 (Five trillion, three hundred sixty-six billion, sixty-seven million).

Five years ago, July 22, 1993, the federal debt stood at $4,340,981,000,000 (Four trillion, three hundred forty billion, nine hundred eighty-one million).

Ten years ago, July 22, 1988, the federal debt stood at $2,552,070,000,000 (Two trillion, five hundred fifty-two billion, seventy million) which reflects a debt increase of nearly $3 trillion—$2,984,673,281,758.09 (Two trillion, nine hundred eighty-four billion, six hundred seventy-three million, two hundred eighty-one thousand, seven hundred fifty-eight dollars and nine cents) during the past 10 years.

RECOGNITION OF NEWT HEISLEY

Mr. CAMPBELL. Mr. President, I begin my statement today describing a powerful and emotional sight that moves us to the core of our faith and beliefs about America and about those who have served in the Armed Forces of our nation.

Many of us have visited one or more of the military academies that train our future military leaders. These academies have varied missions and yet all of them share in the critical task of developing leaders for their particular service and our country. On the grounds of each academy is a chapel, a spectacular place that at once identifies itself as a place of worship.

In each chapel, a place has been reserved for the Prisoners of War and the Missing in Action from their particular branch of service. A pew has been set aside and marked by a candle, a powerful, symbolic reminder that not all have returned from battle. This hallowed place has been set aside so that all POWs and MIAs are remembered with the dignity and honor they deserve. It is a moving and emotional moment to pause at this reserved pew, to be encouraged by the burning candle, to recall the valor and sacrifice of those soldiers, sailors or pilots, and to be inspired today by what they have done.

Back in 1970, a wife of a soldier missing in action made a simple request to have a flag designed for a small group of families whose loved ones were prisoners or missing in action in Southeast Asia. As a member of the National League of Families she felt the organization needed a symbol. This symbol, a black and white flag, with a silhouette of a bowed head set against a guard tower and a single strand of barb wire, was designed by Newt Heisley.

Congress has officially recognized the National League of Families POW/MIA flag. This flag has become a powerful symbol to all Americans that we have not forgotten—and will not forget. Since its creation, the flag has flown over numerous state and federal buildings, and has even been adopted by similar organizations in Kuwait, Chechnya, Bosnia, and other countries.

Newt Heisley made the sketch of this symbol over a couple of days in a New Jersey advertising studio, never imagining the impact the design he created almost 27 years ago would have. Mr. Heisley used the inspiration of his ill son returning from Marine training at Quantico, Virginia for the silhouette. Otherwise the flag was just a quick sketch that wasn't even supposed to be black and white. Mr. Heisley planned on adding colors but the black and white motif remained.

Mr. Heisley, first realized how popular the symbol had become when he moved to Colorado Springs in 1972. Only two years after he made the design he was touring the Air Force Academy when he saw the flag on display at the visitors center. Today, the flag is a national symbol that is seen on everything from ball caps to bumper stickers.

A veteran of World War II, Mr. Heisley knows of the importance of his design. We must never forget those who gave their lives for our country. Mr. Heisley never felt the need to profit from the POW/MIA flag design. The image was never copyrighted and today is used by many companies and organizations. Mr. Heisley was simply glad to create a symbol that honors veterans and the sacrifices they made for our country and freedom.

Mr. President, the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In 20th Century wars alone, more than 147,000 Americans were captured and became Prisoners of War; of that number more than 15,000 died while in captivity. When we add to this number those who are still missing in action, we realize the tremendous importance of their presence through the POW/MIA flag. The POW/MIA flag is a forceful reminder that we care not only for them, but also for their families who personally carry with them the burden of sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, and remember the loyalty and devotion of those who served.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can offer. Newt Heisley has inspired this remembrance and honor and I thank him, personally, for this tremendous symbol that shall endure forever.

MESSAGES FROM THE HOUSE

At 3:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1260. An act to amend the Securities Act of 1933 and Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

For consideration of the House bill (except section 464), and Senate amendment (except sections 484 and 799C), and modifications committed to conference: Mr. GOODLING, Mr. MCKEON, Mr. PETRI, Mr. GRAHAM, Mr. SOUDER, Mr. PETERSON of Pennsylvania, Mr. CLAY, Mr. KILDEE, Mr. MARTINEZ, and Mr. ANDREWS.

For consideration of section 464 of the House bill, and sections 484 and 799 C of the Senate amendment, and modifications committed to conference: Mr. GOODLING, Mr. TALENT, Mr. SHAW, Mr. CAMP, AND Mr. LEVIN.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3616) to authorize appropriations for fiscal 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on National Security, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. SPENCE, Mr. STUMP, Mr. HUNTER, Mr. KASICH, Mr. BATEMAN, Mr. HANSEN, Mr. WELDON of Pennsylvania, Mr. HEFLEY, Mr. SAXTON, Mr. BUYER, Mrs. FOWLER, Mr. MCHUGH, Mr. WATTS of Oklahoma, Mr. THORNBERRY, Mr. CHAMBLISS, Mr. JONES, Mr. PAPPAS, Mr. RILEY, Mr. SKELTON, Mr. SISISKY, Mr. SPRATT, Mr. ORTIZ, Mr. PICKETT, Mr. EVANS, Mr. TAYLOR of Mississippi, Mr. ABERCROMBIE, Mr. MEEHAN, Ms. HARMAN, Mr. MCHALE, Mr. KENNEDY of Rhode Island, Mr. ALLEN, Mr. SNYDER, and Mr. MALONEY of Connecticut.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. GOSS, Mr. LEWIS of California, and Mr. DICKS.

As additional conferees from the Committee on Banking and Financial Services, for consideration of section 1064 of the Senate amendment: Mr. LEACH, Mr. CASTLE, and Mr. LAFALCE.

As additional conferees from the Committee on Commerce, for consideration of sections 601, 3136, 3151, 3154, 3201, 3401, and 3403–3407 of the House bill, and sections 321, 601, 1062, 3133, 3140, 3142, 3144, 3201, and title XXXVIII of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. DAN SCHAEFER of Colorado, and Mr. DINGELL; provided, that Mr. OXLEY is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 321 of the Senate amendment; provided further, that Mr. BILIRAKIS is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 601 of the House bill, and section 601 of the Senate amendment; provided further, that Mr. TAUZIN is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 1062 and title XXXVIII of the Senate amendment.

As additional conferees from the Committee on Education and the Workforce, for consideration of sections 361, 364, 551, and 3151 of the House bill, and sections 522, 643, and 1055 of the Senate amendment, and modifications committed to conference: Mr. PETRI, Mr. RIGGS, and Mr. ROEMER.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of sections 368, 729, 1025, 1042, and 1101–1106 of the House bill, and sections 346, 623, 707, 805, 806, 813, 814, 815, 816, 1101–1105, 3142, 3144, 3145, 3161–3172 and 3510 of the Senate amendment, and modifications committed to conference: Mr. BURTON of Indiana, Mr. MICA, and Mr. WAXMAN; provided, that Mr. HORN is appointed in lieu of Mr. MICA for consideration of section 368 of the House bill, and sections 346, 623, 707, 805, 806, 813, 814, 815, and 816 of the Senate amendment.

As additional conferees from the Committee on International Relations, for consideration of sections 233, 1021, 1043, 1044, 1201, 1204, 1205, 1201, 1211, 1213, 1216, and title XIII of the House bill, and sections 326, 332, 1013, 1041, 1042, 1074, 1084, 3506, 3601, 3602, and 3901–3904 of the Senate amendment, and modifications committed to conference: Mr. GILMAN, Mr. BEREUTER, and Mr. HAMILTON.

As additional conferees from the Committee on International Relations, for consideration of sections 1207, 1208, 1209, and 1212 of the House bill, and modifications committed to conference: Mr. GILMAN, Mr. BEREUER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. HAMILTON, Mr. GEJDENSON, and Mr. LANTOS.

As additional conferees from the Committee on the Judiciary, for consideration of sections 1045 and 2812 of the House bill, and section 1077 of the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. BRYANT and Mr. CONYERS.

As additional conferees from the Committee on Resources, for consideration of sections 601, 2812, and 3404–3407 of the House bill, and sections 601, 2828, and title XXIX of the Senate amendment, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. TAUZIN, and Mr. MILLER of California.

As additional conferees from the Committee on Science, for consideration of sections 3135 and 3140 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. CALVERT, and Mr. BROWN of California.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of sections 552, 601, 1411, and 143 of the House bill, and sections 323, 601, 604, and 1080 of the Senate amendment, and modifications committed to conference: Mr. SHUSTER, Mr. BOEHLERT, and Mr. CLEMENT.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 556 and 1046 of the House bill, and sections 618, 619, 644, and 1082 of the Senate amendment, and modifications committed to conference: Mr. SMITH of New Jersey, Mr. BILIRAKIS, and Mr. RODRIGUEZ.

As additional conferees from the Committee on Ways and Means, for consideration of the XXXVII and XXXVIII of the Senate amendment, and modifications committed to conference: Mr. CRANE, Mr. THOMAS of California, and Mr. MATSUI.

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–6126. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the Authority's report on third quarter obligations and expenditures of non-appropriated funds for fiscal year 1998; to the Committee on Governmental Affairs.

EC–6127. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Indiana Regulatory Program" (No. IN–130–FOR) received on July 21, 1998; to the Committee on Energy and Natural Resources.

EC–6128. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed Manufacturing License Agreement with the United Kingdom for the production of machine gun conversion kits (DTC 17–98) received on July 21, 1998; to the Committee on Foreign Relations.

EC–6129. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, certification of a proposed Manufacturing License Agreement with Taiwan involving the transfer of aircraft engines to the Czech Republic (DTC 1–98) received on July 21, 1998; to the Committee on Foreign Relations.

EC–6130. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, the report of a rule entitled "Revision of Patent Fees for Fiscal Year 1999" (RIN0651–AA96) received on July 20, 1998; to the Committee on the Judiciary.

EC–6131. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Posting of Signs and Written Notification to Purchasers of Handguns" (RIN1512–AB68) received on July 21, 1998; to the Committee on the Judiciary.

EC–6132. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule regarding investment advisers with principal offices and places of business in Colorado or Iowa (RIN3235–AH22) received on July 20, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6133. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of two rules regarding the National Flood Insurance Program (Docket FEMA–7689, RIN3067–AC85) received on July 21, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6134. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's mid-year Monetary Policy Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–6135. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property" (Rev. Rul. 98–36) received on July 20, 1998; to the Committee on Finance.

EC–6136. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of Loans With Below-Market Interest Rates" (Rev. Rul. 98–34) received on July 20, 1998; to the Committee on Finance.

EC–6137. A communication from the Chief of Staff of the Office of the Commissioner of Social Security, transmitting, pursuant to law, the report of a rule regarding referral of cases for quality review (RIN0960–AE53) received on July 15, 1998; to the Committee on Finance.

EC–6138. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Capsaicin; Exemption from the Requirement of a Tolerance" (FRL5799–7) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6139. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers" (FRL6112–7) received on July 16, 1998; to the Committee on Environment and Public Works.

EC–6140. A communication from the Director of the Office of Regulatory Management

and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebuconazole; Extension of Tolerances for Emergency Exemptions" (FRL6015-9) received on July 16, 1998; to the Committee on Environment and Public Works.

EC-6141. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Kentucky: Adoption of General Conformity Regulations" (FRL6130-3) received on July 21, 1998; to the Committee on Environment and Public Works.

EC-6142. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding clean air reasonably available control technology requirements in Kentucky (FRL6126-1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC-6143. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the Prevention of Significant Deterioration of air quality in Kentucky (FRL6125-8) received on July 21, 1998; to the Committee on Environment and Public Works.

EC-6144. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide" (FRL6127-1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC-6145. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approval Numbers Under the Paperwork Reduction Act: Technical Correction" (FRL6125-1) received on July 21, 1998; to the Committee on Environment and Public Works.

EC-6146. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding disapproval of the State Implementation Plan for Arizona's Phoenix PM-10 Moderate Area (FRL6131-6) received on July 21, 1998; to the Committee on Environment and Public Works.

EC-6147. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Public Availability of Information: Electronic FOIA Amendment" (RIN2105-AC69) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6148. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328-100 Series Airplanes" (Docket 98-NM-133-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6149. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes" (Docket 97-CE-92-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6150. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320 and Model A321 Series Airplanes" (Docket 94-NM-94-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6151. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320-111 and -211 Series Airplanes" (Docket 97-NM-160-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6152. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146-RJ Series Airplanes" (Docket 97-NM-02-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6153. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes" (Docket 96-NM-230-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6154. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes" (Docket 98-NM-149-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6155. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB SF340A and SAAB SF340B Series Airplanes" (Docket 98-NM-117-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6156. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class D and Establishment of Class E Airspace; Yuma MCAS-Yuma International Airport, AZ; Correction" (Docket 98-AWP-14) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6157. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Ukiah, CA" (Docket 98-AWP-11) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6158. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Porterville, CA" (Docket 98-AWP-2) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6159. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29282) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6160. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29281) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6161. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29280) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6162. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes" (Docket 98-NM-209-AD) received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6163. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting, an Executive Summary and Annexes to the U.S. Arms Control and Disarmament Agency's 1997 Annual Report; to the Committee on Foreign Relations.

EC-6164. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Eastern Pacific; Pacific Coast Groundfish Fishery; Management Measures for Nontrawl Sablefish" (RIN0648-AJ27) received on July 22, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs: Special Report entitled "'Slamming'—The Authorized Switching of Long-Distance Telephone Service" (Rept. No. 105-259).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1699: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Billie-B-II* (Rept. No. 105-260).

S. 1731: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Falls Point* (Rept. No. 105-261).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 1732: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Vesterhaven* (Rept. No. 105-262).

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted on July 22, 1998:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Nikki Rush Tinsley, of Maryland, to be Inspector General, Environmental Protection Agency.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following executive reports of committees were submitted on July 23, 1998:

By Mr. HELMS, from the Committee on Foreign Relations:

Richard Nelson Swett, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Arthur Louis Schechter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

FEDERAL CAMPAIGN CONTRIBUTION REPORT

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee Richard Nelson Swett.

Post: Ambassador to Denmark.

Contributions, amount, date, and donee:

Self: Dick Swett, $100.00, 5/21/94, Verge for Congress.

Spouse: Katrina Swett, $200.00, 1/11/91, Keefe for Congress; $50.00, 7/28/91, N.H. Democratic Party.

Children: Chelsea Swett, $1.50, 6/27/90, Swett for Congress; $2.00, 3/31/92, Swett for Congress; Sebastian Swett, $1.25, 8/20/90, Swett for Congress; $5.00, 5/01/92, Swett for Congress. Keaton Swett, None. Chanteclaire Swett, None. Kismet Swett, None. Atticus Swett, None. Sunday Swett, None.

Parents: Ann Swett, $200.00, 6/29/90, Swett for Congress; $100.00, 2/07/96, NH Democratic Party; $25.00, 5/09/96, DCCC; $20.00, 5/14/96, National Dem. Committee; $1,000.00, 6/29/96, Swett for Senate; $25.00, 7/17/96, DCCC; $50.00, 9/07/96; Keefe for Congress; $1,000.00, 9/17/96, Swett for Senate; $20.00, 10/1/96, Dem. National Committee. Phil Swett, $100.00, 6/29/90, Swett for Congress; $100.00, 10/31/91, Swett for Congress; $200.00, 10/13/92, Swett for Congress; $100.00, 11/10/93, Swett for Congress; $200.00, 3/18/94, Swett for Congress.

Grandparents: Henry Parkhurst, None. Elizabeth Parkhurst, None. Floyd Swett, None. Wilemina Swett, None.

Brothers and spouses: Jay Swett, None. Philip Swett Jr., None. Theresa Swett, $200.00, 10/18/96, Swett for Senate.

Sisters and spouses: Gail Swett Yeo, $100.00, 9/26/94, Swett for Congress; $100.00, 10/15/96, Swett for Senate. Jonathan Yeo, $100.00, 10/15/96, Swett for Senate. Barbara Swett Burt, $300.00, 10/11/96, Swett for Senate, $30.00, 11/03/94, Friends of Tom Andrews, $31.00, 4/08/96, Maine Democratic Party. Richard Burt, None.

Dick Swett for Congress Committee Contributions as follows: $15.00, 3/22/90, Grafton Democrats; $175.00, 10/12/90, Cheshire County Democrats; $1,000.00, 5/01/91, New Hampshire Democratic Party; $2,500.00, 9/06/91, New Hampshire Democratic Party*; $100.00, 9/12/91, Salem Democrats; $100.00, 9/12/91, Merrimack County Democrats; $45.00, 1/9/92, Belknap County Democrats; $1,000.00, 2/14/92, New Hampshire Democratic Party; $100.00, 5/06/92, Coos County Democratic Committee; $250.00, 6/15/92, New Hampshire Democratic Party; $50.00, 8/17/92, New Hampshire Democratic Party; $50.00, 9/1/92, New Hampshire Democratic Party; $200.00, 9/05/92, Salem Democrats; $150.00, 9/24/92, New Hampshire Democratic Party; $6,000.00, 10/2/92, New Hampshire Democratic Party*; $150.00, 10/26/92, New Hampshire Democratic Party*; $1,000.00, 10/29/92, Preston for Congress; $5,000.00, 12/22/92, Democratic Cong. Campaign Comm.; $1,500.00, 3/19/93, New Hampshire Democratic Party; $1,800.00, 7/2/93, New Hampshire Democratic Party*; $200.00, 8/3/93, Hillsborough Democratic Party; $200.00, 8/7/93, Manchester Democratic Committee; $2,000.00, 8/27/93, New Hampshire Democratic Party*; $2,500.00, 10/14/93, New Hampshire Democratic Party*; $500.00, 10/21/93, Berlin Democratic Committee; $2,000.00, 1/11/94, New Hampshire Democratic Party; $2,500.00, 2/4/94, Democratic Cong. Campaign Comm.; $500.00, 3/14/94, Nashua Presidential Host Account; $150.00, 3/17/94, Merrimack County Democrats; $5,000.00, 5/4/94, New Hampshire Democratic Party*; $2,000.00, 8/8/94, Democratic Cong. Campaign Comm.; $6,000.00, 8/19/94, New Hampshire Democratic Party*; $7,700.00, 8/31/94, New Hampshire Democratic Party*; $100.00, 9/1/94, Hillsborough County Democratic Comm.; $5,000.00, 11/3/94, New Hampshire Democratic Party*; $4,000.00, 11/4/94, New Hampshire Democratic Party*.

Swett for Senate Committee Contributions as follows: $1,000.00, 3/16/95, New Hampshire Democratic Party; $100.00, 4/25/95, Democratic Committee of Hopkinton; $100.00, 8/14/95, Belknap County Democrats; $95.00, 9/6/95, Laconia City Democratic Committee; $105.00, 9/21/95, Democratic City Committee; $100.00, 1/17/96, Cheshire County Democrats; $750.00, 1/24/96, New Hampshire Democratic Party; $40.00, 3/20/96, Merrimack County Democrats; $50.00, 3/29/96, Carroll County Democrats; $25.00, 4/12/96, Cheshire County Democrats; $75.00, 5/14/96, New Hampshire Democratic Party; $30.00, 8/1/96, Concord City Democrats; $100.00, 9/13/96, Stafford County Democratic Committee; $18,000.00, 11/26/96, New Hampshire Democratic Party*; $15,000.00, 3/06/97, New Hampshire Democratic Party*; $500.00, 6/12/97, Archi Pac; $1,000.00, 1/2/98, Jane Frederick for Congress.

*These contributions were Transfers of surplus funds 2USC SEC 439.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Arthur Louis Schechter.

Post: Ambassador to the Bahamas.

Contributions, amount, date, and donee:

1. Self: See Attached.

2. Spouse: Joyce Proler Schechter, See Attached.

3. Children and spouses names: Leslie Rose Schechter Karpas and Hedley Karpas, See Attached; Jennifer Paige Schechter Rosen and Alan Rosen, See Attached.

4. Parents names: Helen and Morris Schechter, deceased.

5. Grandparents names: Miriam and Solomon Schechter, deceased.

6. Brothers and spouses names: Adolph Joe Schechter and wife Joyce, See Attached. Dr. Robert Samuel Schechter and wife Mary Ethel, None.

7. Sisters and spouses names: None.

National political contributions

[Arthur L. Schechter]

1/93–12/93:	
Robb for Senate	$1,000

National political contributions—Continued

DSCC	11,000
Bob Krueger	2,000
Jim Mattox	1,000
Gene Green	1,000
Sheila Jackson Lee	1,000
Kerrey for U.S. Senate	250
Martin Frost Campaign	250
Wilson Committee (primary)	250
Sam Gejdenson Re-election	500
Jeff Bingaman Campaign	500
1/94–12/94:	
DNC—(transferred to non-fed)	10,000
Ken Bentsen	1,000
Lloyd Doggett	1,000
Lloyd Doggett	1,000
Sheila Jackson Lee	1,000
Paul Colbert (primary)	1,000
DSCC	6,000
DSCC (transferred to non-fed)	5,000
Kennedy for Senate	1,000
DNC (Non Federal)	25,000
Hyatt for Senate	1,000
Lautenberg Committee	500
Friends of Bob Carr	250
Mike Synar for Congress	500
Citizens for Senator Wofford	500
Sam Coppersmith for U.S. Senate	250
Sam Gejdenson Re-election Comm.	250
Wilson Committee (general)	200
Gene Green Congressional	500
Effective Government Comm.	250
1/95–12/95:	
DNC (non-federal)	25,000
Tom Daschle	1,000
DNC	10,000
DNC (transferred to non-fed)	10,000
DNC (non-federal)	5,000
Ken Bentsen (primary)	1,000
Ken Bentsen (general)	1,000
John Odam	1,000
DCCC	5,000
Lloyd Doggett (primary)	1,000
Lloyd Doggett (general)	1,000
Clinton/Gore '96 Primary	1,000
Gene Green	1,000
DSCC	5,000
People for Wilhelm	1,000
Citizens for Harkin	250
1/96–12/96:	
Martin Frost	1,000
DNC (transferred to non-fed)	20,000
Tom Daschle (general)	1,000
Nick Lampson (general)	1,000
DNC Non-Federal	30,000
Effective Government	1,000
DSCC	6,000
Lefty Morris	1,000
DSCC	1,000
John Bryant	1,000
Ken Bentsen	1,000
Jim Chapman	1,000
Tim Johnson for S. Dakota	500
Sam Gejdenson	500
Eddie Bernice Johnson	250
1/97–6/97:	
DNC	10,000
DSCC	10,000
John Breaux	1,000
DCCC (non-federal)	1,000
Texas Democratic Party	1,000
Rodriquez for U.S. Congress	300
Mary Moore for Senate	250
7/97–Present	0

[Joyce P. Schechter]

1/93–12/93:	
Jim Mattox	$1,000
Bob Krueger	1,000
Bob Krueger (run-off)	1,000
1/94–12/94:	
Lloyd Doggett	1,000
Lloyd Doggett	1,000

National political contributions—Continued

Sheila Jackson Lee (primary) ..	1,000
Paul Colbert (primary)	1,000
Ken Bentsen	1,000
1/95–12/95:	
Ken Bentsen	1,000
Clinton/Gore '96 Primary	1,000
1/96–12/96:	
Effective Government	1,000
DNC	5,000
Tom Daschle	1,000
Emily's List	1,000
John Bryant	1,000
Friends of Carl Levin	250
7/97–12/97:	
Fritz Hollings for Senate	1,000
1/98–Present:	
Bob Kerrey for Senate	1,000
John Kerry Campaign	1,000
Senator Chris Dodd Campaign ..	500

[Leslie Rose Schechter Karpas]

1/93–12/93:	
Bob Krueger	1,000
1/94–12/94:	
Paul Colbert (primary)	1,000
Jim Mattox (primary)	1,000
Carrin Patman	1,000
Sheila Jackson Lee (general)	500
Ken Bentsen (general)	500
1/95–12/95:	
Clinton/Gore '96	1,000
1/96–12/96:	
Gene Green	1,000
Jim Chapman	2,000
Ken Bentsen	1,000
Nick Lampson for Congress	500
7/97–12/97	-0-
1/98–Present:	
Dick Gephardt Campaign	1,000

[Hedley Karpas]

1/95–12/95:	
Clinton/Gore '96 Primary	1,000
1/96–Present	-0-

[Jennifer Paige Schechter Rosen]

1/94–12/94:	
Jim Chapman	1,000
Ken Bentsen	1,000
Martin Frost	1,000
Fisher for Senate	1,000
Paul Colbert	1,000
Jim Mattox	1,000
Sheila Jackson Lee	500
Coleman for Congress	250
Gene Green Congressional	500
1/95–12/95:	
Sheila Jackson Lee (primary) ..	1,000
Lefty Morris	1,000
Clinton/Gore '96 Primary	1,000
1/96–12/96:	
Sheila Jackson Lee	1,000
Victor Morales	1,000
Martin Frost	1,000
Gene Green	1,000
John Bryant	1,000
Nick Lampson	1,000
Friends of Tom Strickland	500
John Wertheim for Congress	250
1/97–Present	-0-

[Alan M. Rosen]

1/95–12/95:	
Clinton/Gore '96 Primary	1,000
1/96–12/96:	
Nick Lampson for Congress	100
DNC	300
1/97–Present	-0-

[Adolph Joseph Schechter & Joyce Schechter]

1/96–12/96:	
Lefty Morris for Congress	100
1/97–Present	-0-

[Dr. Robert Schechter & Mary Ethel Schechter]

None

PART B—FINANCIAL INFORMATION AMENDED ANSWER TO NUMBER 6

6. Political Contributions—List all financial contributions of $1,000 or more per annum made by you, your spouse or other members of your immediate family to any local, state or national party committee, to any individual candidate or to any multicandidate committee within the last five years.

Answer: In order to update this answer from the previous files of June 5, 1997, and to correct any inadvertent oversights, I am filing the attached amendment.

Members of my immediate family are as follows: my wife, Joyce Proler Schechter; daughters—Leslie Rose Schechter Karpas and husband, Hedley Karpas, and Jennifer Paige Schechter Rosen and husband, Alan M. Rosen; and my brothers—Adolph Joe Schechter and wife, Joyce, and Dr. Robert S. Schechter and wife, Mary Ethel.

Both my parents and grandparents are deceased.

Political contributions within the last five years are attached.

*Any corrections are indicated by asterisk (*) and bold type.

Political Contributions

[Arthur L. Schechter]

6/92–12/92:	
National:	
DNC	$10,000
DNC (transferred to non-fed)	10,000
Feinstein for Senate	1,000
Texas Unity 92	5,000
State:	
Garry Mauro	1,000
Sue Schechter	3,000
Ronnie Harrison	1,000
Ann Richards 1,000	
Local:	
Gaynelle Jones (Judge)	1,000
Scott Link (Judge)	1,000
Judge Rose Spector	1,000
Judge John Ackerman	1,000
Katie Kennedy for Judge	1,000
1/93–12/93	
National:	
Robb for Senate	1,000
DSCC	11,000
Bob Krueger	2,000
Jim Mattox	1,000
Gene Green	1,000
Sheila Jackson Lee	1,000
State:	
Texas Democratic Party	5,000
Bob Bullock	1,000
Garry Mauro	5,000
Craig Eiland	1,000
Ann Richards	25,000
Lloyd Doggett	5,000
Local:	
Harris County Democratic	1,000
David Mincberg	2,000
Rene Hass	5,000
Ed Cogburn	1,000
Susan Sousson	1,000
Judge West	1,000
Peavy	1,150
Eric Andell	1,000
Leta Parks	1,000
Mickey Farrow	1,000
Bob Lanier	5,000
1/94–12/94	
National:	
DNC—(transferred to non-fed)	10,000
Ken Bentsen	1,000
Lloyd Doggett	1,000
Lloyd Doggett	1,000
Sheila Jackson Lee	1,000
Paul Colbert (primary)	1,000
DSCC	6,000
DSCC (transferred to non-fed)	5,000
Kennedy for Senate	1,000
DNC (non-federal)	25,000
Hyatt for Senate	1,000

Political Contributions—Continued

State:	
Bob Bullock	3,500
Garry Mauro	8,500
Martha Whitehead	1,000
Craig Eiland	1,000
Mike Martin	6,000
Ann Richards	26,000
Local:	
Elinor Tinsely	1,000
Patrice Barron for Judge	2,000
Lupe Salinas for Judge	1,000
Jack Lee for Judge	1,000
Rene Haas for Judge	1,000
Michael O'Connor for Judge ..	2,500
Frank Carmona for Judge	1,000
Alice Oliver-Parrott for Judge	2,500
Helen Cassidy for Judge	2,000
Ed Cogburn for Judge	1,000
Jimmy Carroll for Judge	2,000
JohnKirtley for Judge	1,500
1/95–12/95	
National:	
DNC (non-federal)	25,000
Tom Daschle (general)	1,000
DNC	10,000
DNC (transferred to non-fed)	10,000
DNC (non-federal)	5,000
Ken Bentsen (primary)	1,000
Ken Bentsen (general)	1,000
John Odam	1,000
DCCC	5,000
Lloyd Doggett (primary)	1,000
Lloyd Doggett (general)	1,000
Clinton/Gore '96 Primary	1,000
Gene Green	1,000
DSCC	5,000
People for Wilhelm	1,000
State:	
Garry Mauro	1,000
21st Century Democrats	20,000
John Whitmire	2,000
Local:	
David Ballard	1,000
Judson Robinson	1,000
Harris County Dem. Pty.	5,000
Norma Venso	1,000
David Garner	1,000
1/96–12/96	
National:	
Martin Frost	1,000
DNC (transferred to non-fed)	20,000
Tom Daschle (general)	1,000
Nick Lampson (general)	1,000
DNC (non-federal)	30,000
Effective Government	1,000
DSCC	6,000
Lefty Morris	1,000
DSCC	1,000
John Bryant	1,000
* Ken Bentsen	1,000
*Jim Chapman	1,000
State:	
21st Century Democrats	33,000
Garry Mauro	3,000
Bob Bullock	1,500
Texas Senate Dem. Comm.	1,000
Local:	
David Garner	2,000
Larry Edrozo	1,000
1/97–6/97	
National:	
DNC	10,000
DSCC	10,000
John Breaux	1,000
DCCC (non-federal)	1,000
Texas Democratic Party	1,000
State:	
21st Century Democrats	10,000
7/97 to present	-0-

[Joyce P. Schechter]

6/92–12/92	
National:	
Carol Moseley Braun	1,000

Political Contributions—Continued

Dianne Feinstein 1,000
1/93–12/93
National:
Jim Mattox 1,000
Bob Krueger 1,000
Bob Krueger (run-off) 1,000
State:
Texas Democratic Party 3,000
Paul Colbert 1,000
1/94–12/94
National:
*Lloyd Doggett 2,000
Sheila Jackson Lee (primary) 1,000
Paul Colbert (primary) 1,000
Ken Bentsen 1,000
1/95–12/95
National:
Ken Bentsen 1,000
Clinton/Gore '96 Primary 1,000
1/96–12/96
National:
Effective Government 1,000
DNC 5,000
Tom Daschle 1,000
Emily's List 1,000
John Bryant 1,000
7/97 to 12/97
Local:
Lee Brown for Mayor 3,000
Sylvia Garcia for Comptroller 1,000
Sue Schechter Campaign 2,000
National:
*Fritz Hollings for Senate 1,000
1/98 to Present
National:
Bob Kerrey for Senate 1,000
John Kerry Campaign 1,000
Senator Dodd Campaign 500
State:
John Sharp for Lt. Governor 500

[Leslie Rose Schechter Karpas]

1/93–12/93
National:
Bob Krueger 1,000
1/94–12/94
National:
Paul Colbert (primary) 1,000
Jim Mattox (primary) 1,000
Carrin Patman 1,000
1/95–12/95
National:
Clinton/Gore '96 1,000
1/96–12/96
National:
Gene Green 1,000
Jim Chapman 2,000
*Ken Bentsen 1,000
*7/97 to 12/97 0
1/98 to Present
National:
Dick Gephardt Campaign 1,000

[Hedley Karpas]

1/95–12/95
National:
Clinton/Gore '96 Primary 1,000
*1/96 to Present 0

[Jennifer Paige Schechter Rosen]

1/94–12/94
National:
Jim Chapman 1,000
Ken Bentsen 1,000
Martin Frost 1,000
Fisher for Senate 1,000
Paul Colbert 1,000
Jim Mattox 1,000
1/95–12/95
National:
Sheila Jackson Lee (primary) 1,000
Lefty Morris 1,000
Clinton/Gore '96 Primary 1,000
1/96–12/96
National:
Sheila Jackson Lee 1,000

Political Contributions—Continued

Victor Morales 1,000
Martin Frost 1,000
Gene Green 1,000
John Bryant 1,000
Nick Lampson 1,000
*1/97 to Present .....

James Howard Holmes, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

Nominee: James Howard Holmes.

Post: Ambassador to the Republic of Latvia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, and the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, father, deceased, mother: none.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Steven Robert Mann, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

Nominee Steven Robert Mann

Post Turkmenistan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self, $50.00, 11/94, Robb for Senate campaign.
2. Spouse, Janice M. Soreth, none.
3. Children and spouses, names, Natalia, David, none.
4. Parents names, John Mann (stepfather), deceased; Elizabeth Mann, deceased; Robert Snyderman (father) deceased.
5. Grandparents names, William and Ethel Bodensieck, deceased; John and Anna Mann, deceased; Snyderman grandparents, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Elizabeth and Peter Simoes, none.

John Bruce Craig, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

Nominee: John B. Craig.

Post: Ambassador, Sultanate of Oman.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. to the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee;

1. Self, none.
2. Spouse, Gerre Lee J. Craig, none.
3. Children and spouses names, Jason N. Craig, none.
4. Parents names, Margaret F. Craig, (decreased), Owen J. Craig, none.
5. Grandparents names, Paris and Minerva Engle Fridy, decreased; O.J. Gertrude Beutler Craig, decreased.
6. Brothers and spouses names, Charles and Suzanne Craig, none.
7. Sisters and spouses names, none.

Elizabeth Davenport McKune, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Nominee: Elizabeth McKune.

Post: State of Qatar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee;

1. Self, $100, July 1996 Presidential Campaign, Democratic National Committee.
2. Spouse, none, Democratic National Committee
3. Children and spouses names, N/A.
4. Parents names, Clarence Davenport, $50, July 1996 Presidential Campaign, ";Democratic National Committee names, Yolande Davenport, $100, July 1996 Presidential Campaign, "; Democratic National Committee Yolanda Davenport, $12.60 Democrats 2000, ";Democratic National Committee
5. Grandparents names, all deceased.
6. Brothers and spouses, names Stephen and Mary Davenport, none. Richard and Tina Davenport, none.
7. Sisters and spouses, names, none.

David Michael Satterfield, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: David M. Satterfield.

Post: Ambassador to Lebanon.

Contributions, Amount, Date, and Donee:

1. Self, None.
2. Spouse; None.
3. Children and spouses names, Victoria Satterfield, none, Alexander Satterfield, none.
4. Parents names, Betty G. Kemp, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Nancy Goldstein, none, Barry Goldstein, none.

Melissa Foelsch Wells, of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Melissa Wells.

Post: Estonia.
Contributions, Amount, Date, and Donee.
1. Self, none.
2. Spouse, Alfred W. Wells, none.
3. Children and spouses names, Gregory C. Wells, Christopher S. (wife Fatima Wells,) none.
4. Parents names, Miliza Korjus and Kuno Foelsch, all deceased.
5. Grandparents, names, all deceased.
6. Brothers and spouses names, Richard Foelsch, and Ernest Foelsch, none.
7. Sisters and spouses names, none.

Richard E. Hecklinger, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Richard E. Hecklinger.
Post: Bangkok.
Contributions, Amount, Date, and Donee.
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, Dorothy K. Hecklinger, none, Clarence F. Hecklinger (deceased).
5. Grandparents names, all deceased.
6. Brothers and spouses names, Fred and Margaret Hecklinger, none.
7. Sisters and spouses names, none.

Theodore H. Kattouf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Theodore H. Kattouf.
Post: United Arab Emirates.
Contributions, Amount, Date, and Donee.
1. Self, Theodore H. Kattouf, none.
2. Spouse, Jeannie M. Kattouf, none.
3. Children and spouses, Jennifer Morningstar, none, Jack Morningstar, none, Jonathan Kattouf, none, Paul Kattouf, none, Michael Kattouf, none.
4. Parents, Habab Kattouf, deceased, Victoria Kattouf, none.
5. Grandparents, all deceased.
6. Brothers and spouses, George Kattouf, none, Melanie (Noel) Kattouf, none, Greg Kattouf, none.
7. Sisters and spouses, Sylvia Hanna, none, Nicholas Hanna, none.

Bert T. Edwards, of Maryland, to be Chief Financial Officer, Department of State.

David G. Carpenter, of Virginia, to be an Assistant Secretary of State.

David G. Carpenter, of Virginia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service.

Charles F. Kartman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for the Korean Peace Talks.

William B. Milam, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Nominee: William B. Milam.
Post Ambassador to Pakistan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse (separated), none.
3. Children and spouses names, Erika L. Milam, none.
4. Parents names, Burl V. Miliam deceased 1963; Alice V. Milam (nee Pierce), deceased 1977.
5. Grandparents names, William A. Pierce, deceased 1951; Martha Ellen, Ellen (Cowls), deceased 1940; Alfred Miliam, deceased 1938; Grace (Eads) Milam, deceased ca. 1946.
6. Brothers and spouses names, Robert D. Milam, none; Joyce N. Milam, none; Carlin R. Milam, none; and Howard P. Milam, none; Doris N. Milan, none.
7. Sisters and spouses names, no sisters.

Mary Beth West, of the District of Columbia, a Career Member of the Senior Executive Service, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for Oceans, Fisheries and Space.

Jonathan H. Spalter, of the District of Columbia, to be an Associate Director of the United States Information Agency.

Hugh Q. Parmer, of Texas, to be an Assistant Administrator of the Agency for International Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Madam President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the RECORDS of June 18, 1998 and July 15, 1998, 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 June 18, 1998 and July 15, 1998, at the end of the Senate proceedings.)

In the Foreign Service nomination beginning Homi Jamshed, and ending Joseph E. Zadrozny, Jr., which nominations were received by the Senate and appeared in the RECORD of June 18, 1998.

In the Foreign Service nominations beginning Robert James Bigart, Jr., and ending Carol J. Urban, which nominations were received by the Senate and appeared in the RECORD of July 15, 1998.

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. DORGAN:

S. 2345. A bill to amend section 3681 of title 18, United States Code, relating to the special forfeiture of collateral profits of a crime; to the Committee on the Judiciary.

By Mr. ALLARD (for himself, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. MACK, Mr. SHELBY, and Mr. GRAMS):

S. 2346. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 2347. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BURNS:

S. 2348. A bill to amend the Communications Act of 1934 to reduce telephone rates, provide advanced telecommunications services to schools, libraries, and certain helath care facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 2349. A bill to authorize appropriations for the hazardous materials transportation program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2350. A bill to clarify the application of toll restrictions to Delaware River Port Authority bridges; 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. COVERDELL (for himself, Mr. CRAIG, and Mr. ENZI):

S. Con. Res. 109. A concurrent resolution expressing the sense of the Congress that executive departments and agencies must maintain the division of governmental responsibilities between the national government and the States that was intended by the framers of the Constitution, and must ensure that the principles of federalism established by the framers guide the executive departments and agencies in the formulation and implementation of policies; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN:

S. 2345. A bill to amend section 2681 of title 18, United States Code, relating to the special forfeiture of collateral profits of a crime; to the Committee on the Judiciary.

FEDERAL SON OF SAM LEGISLATION

Mr. DORGAN. Mr. President, today, I am introducing a bill to correct problems with the Federal "Son of Sam"

law, as those problems were perceived by the United States Supreme Court. The New York statute analyzed by the Supreme Court, as well as the Federal statute which I seek to amend, forfeited the proceeds from any expressive work of a criminal, and dedicated those proceeds to the victims of the perpetrator's crime. Because of constitutional deficiencies cited by the Court, the Federal statute has never been applied, and without changes, it is highly unlikely that it ever will be. Without this bill, criminals can become wealthy from the fruits of their crimes, while victims and their families are exploited.

The bill I now introduce attempts to correct constitutional deficiencies cited by the Supreme Court in striking down New York's Son of Sam law. In its decision striking down New York's law, the Court found the statute to be both over inclusive and under inclusive: Over inclusive because the statute included all expressive works, no matter how tangentially related to the crime; under inclusive because the statute only included expressive works, not other forms of property.

To correct the deficiencies perceived by the Court, this bill changes significantly the concepts of the Federal statute. Because the Court criticized the statute for singling out speech, this bill is all encompassing: It includes various types of property related to the crime from which a criminal might profit. Because the Court criticized the statute for being over inclusive, including the proceeds from all works, no matter how remotely connected to the crime, this bill limits the property to be forfeited to the enhanced value of property attributable to the offense. Because the Court found fault with the statute for not requiring a conviction, this bill requires a conviction.

The bill also attempts to take advantage of the long legal history of forfeiture. Pirate ships and their contents were once forfeited to the government. More recent case law addresses the concept of forfeiting any property used in the commission of drug related crimes, or proceeds from those crimes. Hopefully, courts interpreting this statute will look to this legal history and find it binding or persuasive.

The bill utilizes the Commerce Clause authority of Congress to forfeit property associated with State crimes. This means that if funds are transferred through banking channels, if UPS or FedEx are used, if the airwaves are utilized, or if the telephone is used to transfer the property, to transfer funds, or to make a profit, the property can be forfeited. In State cases, this bill allows the State attorney general to proceed first. We do not seek to preempt State law, only to see that there is a law in place which will ensure that criminals do not profit at the expense of their victims and the families of victims.

One last improvement which this bill makes over the former statutes: The old statute included only crimes which resulted in physical harm to another; this bill includes other crimes. Examples of crimes probably not included under the old statute, but included here are terrorizing, kidnaping, bank robbery, and embezzlement.

Mr. President, our Federal statute, enacted to ensure that criminals not profit at the expense of their victims and victim's families, is not used today because it is perceived to be unconstitutional. I believe victims of crime deserve quick action on this bill, drafted to ensure that they are not the source of profits to those who committed crimes against them. I ask for your support.

By Mr. ALLARD (for himself, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. MACK, Mr. SHELBY, and Mr. GRAMS):

S. 2346. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

THE SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998

• Mr. ALLARD. Mr. President, today I am pleased to introduce legislation that will expand and improve Subchapter S of the Internal Revenue Code. I am joined in this effort by Senators D'AMATO, FAIRCLOTH, HAGEL, ENZI, BENNETT, MACK, SHELBY, and GRAMS.

The Subchapter S provisions of the Internal Revenue Code reflect the desire of Congress to eliminate the double tax burden on small business corporations. Pursuant to that desire, Subchapter S has been liberalized a number of times, most recently in 1996. This legislation contains several provisions that will make the Subchapter S election more widely available to small businesses in all sectors. It also contains several provisions of particular benefit to community banks that may be contemplating a conversion to Subchapter S. Financial institutions were first made eligible for the Subchapter S election in 1996. This legislation builds on and clarifies the Subchapter S provisions applicable to financial institutions.

Mr. President, as Congress considers credit union legislation and financial modernization legislation, it is important that we explore ways in which we can ensure that the tax and regulatory burden on our community bankers remains reasonable. This legislation is reflective of that desire.

Mr. President, I ask unanimous consent that the text of the bill and the attached explanation of the provisions of the bill be printed in the RECORD.

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

S. 2346

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 "Small Business and Financial Institutions Tax Relief Act of 1998".

SEC. 2. EXPANSION OF S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Section 1361(c)(2)(A) of the Internal Revenue Code of 1986 (relating to certain trusts permitted as shareholders) is amended by inserting after clause (v) the following:

"(vi) A trust described in section 408(a)."

(b) TREATMENT AS SHAREHOLDER.—Section 1361(c)(2)(B) of the Internal Revenue Code of 1986 (relating to treatment as shareholders) is amended by adding at the end the following:

"(vi) In the case of a trust described in clause (vi) of subparagraph (A), the individual for whose benefit the trust was created shall be treated as a shareholder."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.

(a) IN GENERAL.—Section 1362(d)(3)(C) of the Internal Revenue Code of 1986 (relating to passive investment income defined) is amended by adding at the end the following:

"(v) EXCEPTION FOR BANK INVESTMENT SECURITIES INCOME.—In the case of a bank (as defined in section 581), the term 'passive investment income' shall not include interest on investment securities held by a bank."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 4. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 150.

(a) IN GENERAL.—Section 1361(b)(1)(A) of the Internal Revenue Code of 1986 (defining small business corporation) is amended by striking "75" and inserting "150".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 5. TREATMENT OF DIRECTOR QUALIFYING STOCK.

(a) IN GENERAL.—Section 1361(c) of the Internal Revenue Code of 1986 (relating to special rules for applying subsection (b)) is amended by adding at the end the following:

"(7) DIRECTOR QUALIFYING STOCK.—

"(A) IN GENERAL.—For purposes of subsection (b)(1)(D), director qualifying stock shall not be treated as a second class of stock.

"(B) DIRECTOR QUALIFYING STOCK DEFINED.—For purposes of this paragraph, the term 'director qualifying stock' means any stock held by any director of a bank (as defined in section 581) as mandated by banking regulatory requirements."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 6. BAD DEBT CHARGE OFFS IN YEARS AFTER ELECTION YEAR TREATED AS ITEMS OF BUILT IN LOSS.

The Secretary of the Treasury shall modify Regulation 1.1374-4(f) for taxable years beginning after December 31, 1998, with respect to bad debt deductions under section 166 of the Internal Revenue Code of 1986 by allowing such deductions to be properly taken into account throughout the recognition period (as defined in section 1374(d)(7) of such Code).

SEC. 7. INCLUSION OF BANKS IN 3-YEAR S CORPORATION RULE FOR CORPORATE PREFERENCE ITEMS.

(a) IN GENERAL.—Section 1363(b) of the Internal Revenue Code of 1986 (relating to computation of corporation's taxable income) is amended by adding at the end the following new flush sentence:

"Paragraph (4) shall apply to any bank whether such bank is an S corporation or a qualified subchapter S subsidiary."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998—LEGISLATION TO EXPAND AND IMPROVE SUBCHAPTER S

Subchapter S of the Internal Revenue Code was first enacted in 1958 to reduce the tax burden on small business corporations. The Subchapter S provisions have been liberalized a number of times over the last two decades, most significantly in 1982, and again in 1996. This liberalization reflects a desire on the part of Congress to relieve the tax burden on small business. S corporations do not pay corporate level income taxes, earnings are passed through to the shareholder level where income taxes are paid, thus eliminating the double taxation of corporations. By contrast, Subchapter C corporations pay corporate level income taxes on earnings, and shareholders pay income taxes again on those same earnings when they are passed through as dividends.

This proposed S corporation improvement legislation would be helpful to many small businesses, but a number of its provisions are particularly applicable to banks.

Congress made S corporation status available to small banks for the first time in the 1996 "Small Business Job Protection Act" but many small banks are having trouble qualifying under the current rules. The proposed legislation:

Increases the number of S corporation eligible shareholders from 75 to 150.

Permits S corporation shares to be held as Individual Retirement Accounts (IRAs).

S corporations are restricted in the amount of passive investment income they may generate. This bill makes clear that any interest on investments maintained by a bank for liquidity and safety and soundness purposes shall not be "passive" income.

S corporations may only have one class of stock. This bill provides that any stock that bank directors must hold under banking regulations shall not be a disqualifying second class of stock.

Banks that are converting to S corporations must recapture any accumulated bad debt reserve. This bill permits banks to deduct bad debt charge offs over the same number of years that the accumulated bad debt reserve must be recaptured.

S corporations that convert from C corporations are denied certain interest deductions (preference items) for up to three years following the conversion, at the end of three years the deductions are allowed. The bill clarifies that this Three Year S Corporation Rule for certain interest deduction preference items applies to S corporation banks, thereby providing equitable treatment for S corporation banks.•

By Mr. HARKIN:

S. 2347. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1998

• Mr. HARKIN. Mr. President, methamphetamine is fast becoming the leading illegal addictive drug in this nation. From quiet suburbs, to city streets, to the corn rows of Iowa, meth is destroying thousands of lives every year. A majority of those lives, unfortunately, are our children's.

Methamphetamine is now commonly referred to as Iowa's illegal drug of choice. This drug is reaching epidemic proportions as it sweeps from the west coast, ravages through the Midwest, and is now beginning to reach the east. The trail of destruction of human life as a result of methamphetamine addiction is running across America from coast to coast. To illustrate the violence it elicits in people, methamphetamine is cited as a contributing factor in 80 percent of domestic violence cases in Iowa and a leading factor in a majority of violent crimes.

In 1996, I was proud to be an original cosponsor of the Methamphetamine Control Act which has done some good. However, in talking to local law enforcement and concerned citizens across Iowa, it is obvious that the methamphetamine problem has exploded beyond anything we envisioned in 1996.

The number of meth arrests, court cases, and confiscation of labs continues to escalate. In the Midwest alone, the number of clandestine meth labs confiscated and destroyed for 1998 is on pace to triple the number confiscated and destroyed in 1997. The cost of clean-up for each lab ranges from $5,000 to $90,000. This cost is being absorbed by communities who are not prepared, or experienced with the dangers of drug trafficking.

Additionally, these clandestine meth labs create an enormous amount of hazardous waste. For every 1 pound of methamphetamine produced, there are 5 to 6 pounds of hazardous waste as a by-product. This waste is highly toxic and often seeps into the ground where eventually it ends up in our drinking water supply.

The dangers posed to law enforcement officers also are greatly increased by these labs. Many peddlers of meth are now what they call "kitchen" labs. Meth pushers are now simply using mobile homes or even pick-up trucks to produce their drugs. Combining many volatile chemicals in an uncontrolled environment, meth labs are time bombs to police officers and communities everywhere.

Mr. President, today I am introducing the Comprehensive Methamphetamine Control Act of 1998. My legislation takes a comprehensive, common sense approach in battling this growing epidemic. It calls for an increase in resources to law enforcement working through the High Intensity Drug Trafficking Area (HIDTA) program and establishes swift and certain penalties for those producing and peddling meth.

Also, my legislation expands school and community-based prevention efforts at the local level—targeting those areas that need it the most. Finally, this proposal calls on the National Institute on Drug Abuse to find exactly what makes methamphetamine so very addictive—especially to our young people—and the best methods for beating the addiction.

Mr. President, I believe that we have a window of opportunity as a nation to take a stand right now to defeat this scourge. Everyday, meth infiltrates our city streets and suburbs, leading more and more people down a path of personal destruction. Families are being devastated and communities are fighting an uphill battle against this powerful drug. The time is now to make a stand to protect our communities and schools by passing this legislation.

I ask unanimous consent that the bill and a summary of the legislation be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Methamphetamine Abuse Reduction Act".

SEC. 2. EXPANDING METHAMPHETAMINE ABUSE PREVENTION EFFORTS.

Section 515 of the Public Health Service Act (42 U.S.C. 290bb-21) is amended by adding at the end the following:

"(e) PREVENTION OF METHAMPHETAMINE ABUSE AND ADDICTION.—

"(1) GRANTS.—The Director of the Center for Substance Abuse Prevention (referred to in this section as the 'Director') may make grants to and enter into contracts and cooperative agreements with public and non-profit private entities to enable such entities—

"(A) to carry out school-based programs concerning the dangers of methamphetamine abuse and addiction, using methods that are effective and evidence-based; and

"(B) to carry out community-based methamphetamine abuse and addiction prevention programs that are effective and evidence-based.

"(2) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering methamphetamine prevention programs in accordance with paragraph (3).

"(3) PREVENTION PROGRAMS AND ACTIVITIES.—

"(A) IN GENERAL.—Amounts provided under this subsection may be used—

"(i) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine abuse and addiction and targeted at populations which are most at risk to start methamphetamine abuse;

"(ii) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for methamphetamine abuse and addiction;

"(iii) to assist local government entities to conduct appropriate methamphetamine prevention activities;

"(iv) to train and educate State and local law enforcement officials on the signs of methamphetamine abuse and addiction and the options for treatment and prevention;

"(v) for planning, administration, and educational activities related to the prevention of methamphetamine abuse and addiction;

"(vi) for the monitoring and evaluation of methamphetamine prevention activities, and reporting and disseminating resulting information to the public; and

"(vii) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(B) PRIORITY.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

"(4) ANALYSES AND EVALUATION.—

"(A) IN GENERAL.—Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Director, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for methamphetamine abuse and addiction and the development of appropriate strategies for disseminating information about and implementing these programs.

"(B) ANNUAL REPORTS.—The Director shall submit to the Committee on Labor and Human Resources and Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House of Representatives, an annual report with the results of the analyses and evaluation under subparagraph (A).

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), $20,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.".

SEC. 3. EXPANDING CRIMINAL PENALTIES AND LAW ENFORCEMENT FUNDING.

(a) SWIFT AND CERTAIN PUNISHMENT OF METHAMPHETAMINE LABORATORY OPERATORS.—

(1) FEDERAL SENTENCING GUIDELINES.—

(A) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate Federal sentencing guidelines or amend existing Federal sentencing guidelines for any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) in accordance with this paragraph.

(B) REQUIREMENTS.—In carrying out this paragraph, the United States Sentencing Commission shall, with respect to each offense described in subparagraph (A)—

(i) increase the base offense level for the offense—

(I) by not less than 3 offense levels above the applicable level in effect on the date of enactment of this Act; or

(II) if the resulting base offense level after an increase under subclause (II) would be less than level 27, to not less than level 27; or

(ii) if the offense created a substantial risk of danger to the health and safety of another person (including any Federal, State, or local law enforcement officer lawfully present at the location of the offense, increase the base offense level for the offense—

(I) by not less than 6 offense levels above the applicable level in effect on the date of enactment of this Act; or

(II) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.

(C) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate the guidelines or amendments provided for under this paragraph as soon as practicable after the date of enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.

(2) EFFECTIVE DATE.—The amendments made pursuant to this subsection shall apply with respect to any offense occurring on or after the date that is 60 days after the date of enactment of this Act.

(b) INCREASED RESOURCES FOR LAW ENFORCEMENT.—There are authorized to be appropriated to the Office of National Drug Control Policy to combat the trafficking of methamphetamine in areas designated by the Director of National Drug Control Policy as high intensity drug trafficking areas—

(1) $25,000,000 for fiscal year 1999; and

(2) such sums as may be necessary for each of fiscal years 2000 through 2004.

SEC. 4. TREATMENT OF METHAMPHETAMINE ABUSE.

Section 507 of the Public Health Service Act (42 U.S.C. 290bb) is amended by adding at the end the following:

"(d) TREATMENT OF METHAMPHETAMINE ABUSE AND ADDICTION.—

"(1) GRANTS.—The Director of the Center for Substance Abuse Treatment (referred to in this section as the 'Director') may make grants to and enter into contracts and cooperative agreements with public and non-profit private entities for the purpose of expanding activities for the treatment of methamphetamine abuse and addiction.

"(2) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering methamphetamine treatment programs in accordance with paragraph (3).

"(3) TREATMENT PROGRAMS AND ACTIVITIES.—

"(A) IN GENERAL.—Amounts provided under this subsection may be used for—

"(i) evidence-based programs designed to assist individuals to quit their use of methamphetamine and remain drug-free;

"(ii) training in recognizing methamphetamine abuse and addiction for health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(iii) training in methamphetamine treatment methods for health plans, health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(iv) planning, administration, and educational activities related to the treatment of methamphetamine abuse and addiction;

"(v) the monitoring and evaluation of methamphetamine treatment activities, and reporting and disseminating resulting information to health professionals and the public;

"(vi) targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies; and

"(vii) coordination with the Center for Mental Health Services on the connection between methamphetamine abuse and addiction and mental illness.

"(B) PRIORITY.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

"(4) ANALYSES AND EVALUATION.—

"(A) IN GENERAL.—Not more than $1,000,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Director, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective treatments for methamphetamine abuse and addiction and the development of appropriate strategies for disseminating information about and implementing treatment services.

"(B) ANNUAL REPORT.—The Director shall submit to the Committee on Labor and Human Resources and Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House or Representatives, an annual report with the results of the analyses and evaluation conducted under subparagraph (A).

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), $40,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.".

SEC. 5. EXPANDING METHAMPHETAMINE RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o-2) is amended by adding at the end the following:

"(c) METHAMPHETAMINE RESEARCH.—

"(1) GRANTS.—The Director of the Institute may make grants to expand interdisciplinary research relating to methamphetamine abuse and addiction and other biomedical, behavioral and social issues related to methamphetamine abuse and addiction.

"(2) USE OF FUNDS.—Amounts made available under a grant under paragraph (1) may be used to conduct interdisciplinary research on methamphetamine abuse and addiction, including research on—

"(A) the effects of methamphetamine abuse on the human body;

"(B) the addictive nature of methamphetamine and how such effects differ with respect to different individuals;

"(C) the connection between methamphetamine abuse and mental illness;

"(D) the identification and evaluation of the most effective methods of prevention of methamphetamine abuse and addiction;

"(E) the identification and development of the most effective methods of treatment of methamphetamine addiction, including pharmacological treatments;

"(F) risk factors for methamphetamine abuse;

"(G) effects of methamphetamine abuse and addiction on pregnant women and their fetuses;

"(H) cultural, social, behavioral, neurological and psychological reasons that individuals abuse methamphetamine, or refrain from abusing methamphetamine.

"(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating methamphetamine abuse and addiction.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), $16,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.".

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1998—HIGHLIGHTS

Increased Resources for Law Enforcement. Two years ago, Senator HARKIN and other members of the Iowa Congressional delegation worked to provide Iowa law enforcement with enhanced support to fight the rise in methamphetamine abuse. Iowa (along with Missouri, Kansas, and Nebraska) was designated as a High Intensity Drug Trafficking Area (HIDTA). As a HIDTA, Iowa law enforcement has received funding to increase the number of federal prosecutors and state and local police available to crack down on meth. This legislation would expand HIDTA funding to combat methamphetamine abuse from $8 million to $25 million, allowing law enforcement officials to significantly expand their efforts and make our communities safer.

Swift and Certain Punishment of Meth Lab Operators. Federal, state and local law enforcement officials have been working hard to prosecute those found to be making methamphetamine. However, because of the great number of cases in Iowa and other states and the inflexibility of current laws, there are often long delays in prosecution. Therefore, this legislation includes a recommendation by the Midwest HIDTA to provide for swifter and more certain punishment of these offenders. It would direct the U.S. Sentencing Commission to increase the penalties for those convicted of manufacturing, attempting to manufacture or conspiracy to manufacture methamphetamine. It would also increase jail time for meth lab cases where the offense created a substantial danger to the health and safety to others, including law enforcement personnel.

Stepping Up Community-Based Prevention Efforts. Critical to any successful comprehensive effort to combat methamphetamine is a strong school and community-based prevention program. This legislation authorizes an additional $20 million to fund expanding school and community-based prevention efforts at the state and local level. Funds are to be targeted to rural and other areas, like Iowa, that are experiencing high or rapid increases in methamphetamine abuse. Funds would be used for education of children, parents, local law enforcement, businesses and others about the dangers of methamphetamine and on how to identify likely users and producers of the drug.

Expanded Treatment to Fight Meth Addiction. Also critical to a successful effort to combat methamphetamine abuse is a well-designed, adequately funded treatment program for those who become addicted to the drug. Once again, funds would be targeted to rural and other areas, like Iowa, that are experiencing high or rapid increases in methamphetamine abuse. Funds would be used to develop and evaluate effective treatment methods for methamphetamine abusers, to train health professionals about effective treatment methods and to help individuals quit their use of the drug. The bill would encourage targeted pilot programs to develop new and innovative treatment methods.

Expanded Research to Develop Improved Prevention and Treatment Strategies. While there are a number of local programs and strategies that are working to combat meth, additional research is needed to develop improved approaches. Our legislation calls on the National Institute on Drug Abuse (NIDA) to fund research to identify and evaluate the most effective methods of treatment and prevention, as well as the biomedical, neurological and physiological causes and effects of methamphetamine abuse and addiction. In addition, NIDA would be required to promptly disseminate their research results to Federal, State and local organizations involved in combating meth abuse.•

By Mr. MCCAIN:

S. 2349. A bill to authorize appropriations for the hazardous materials transportation program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION ACT OF 1998

• Mr. MCCAIN. Mr. President, today I am introducing the Hazardous Materials Transportation Reauthorization Act of 1998. This legislation is identical to the reauthorizing provisions approved by the Senate earlier this year under Subtitle B of Title III of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1998.

Mr. President, the Commerce Committee spent considerable time and effort developing and debating the safety provisions that were incorporated into the ISTEA reauthorization bill, ultimately entitled the Transportation Equity Act for the 21st Century—TEA—21 (P.L. 105–178). Once in conference with our House counterparts, we were faced with many difficult decisions and compromises. The one area that we did not reach agreement regarded the provisions associated with the Hazardous Materials Transportation programs administered by the Research and Special Programs Administration (RSPA) of the Department of Transportation.

Since the House had not acted to reauthorize this program in its version of ISTEA reauthorizing legislation, we found ourselves unable to reach agreement on including it in the conference report. Therefore, the Senate must again take action to reauthorize the Hazardous Materials Transportation Act.

Mr. President, I want to stress that this bill I am introducing today is identical to the hazardous materials reauthorization the Senate passed earlier this year. The legislation proposing reauthorizes funding for programs that ensure the safe transportation of hazardous materials. It also includes a number of provisions requested by the Administration that are intended to strengthen and improve the hazardous materials transportation program. And again Mr. President, I will reiterate, this bill is identical to the proposal passed by the Senate on March 12, 1998.

Mr. President, it is very important for the Congress to complete its work and reauthorize all of our nation's critical transportation safety programs. Therefore, I will be seeking to move this legislation through the Commerce, Science, and Transportation Committee in the very near future.•

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2350. A bill to clarify the application of toll restrictions to Delaware River Port Authority bridges; to the Committee on the Judiciary.

DELAWARE RIVER PORT AUTHORITY COMPACT CLARIFICATION

• Mr. SPECTER. Mr. President, I introduce noncontroversial legislation which is essential to the ability of the Delaware River Port Authority to raise funds in the bond markets. Specifically, this bill clarifies that the 1987 law which repealed the thirty-year limit on bridge toll collection set by the General Bridge Act of 1946 also applies to the Delaware River Port Authority's bridges in Southeastern Pennsylvania and Southern New Jersey. It is arguable that this legislation is not necessary and that a court would construe the 1987 law in the Port Authority's favor. However, to assure certainty for the financial markets and entities considering purchasing bonds issued by the Port Authority, I believe it is worthwhile for Congress to adopt legislation making this technical clarification.

By way of background, for many years, federal regulations governed the collection of tolls on bridges throughout the nation. Then, in the 1987 highway bill, congress repealed section 506 of the 1946 General Bridge Act which imposed a 30-year time limit on the collection of tolls. The bridges owned and operated by the Delaware River Port Authority, however, are governed by a 1952 public law by which Congress ratified the Pennsylvania-New Jersey compact establishing the Port Authority. Section 3 of that public law provided that the Port Authority's bridges were expressly exempt from the 30-year limit of the General Bridge Act and were instead subject to a 50-year limit on the collection of tolls.

A strong case could be made that any existing statutory limit on the Port Authority was implicitly repealed by the 1987 highway bill because the limit in the 1952 compact legislation was drafted as an exception to a law that is no longer in effect (i.e., Section 506 of the General Bridge Act of 1946). However, since the 1952 Port Authority provision has not been technically repealed, I am proposing legislation to correct this oversight.

The legislative history of the Section 3 of the Port Authority compact legislation also suggests that the 50-year toll-collection limit should no longer apply. Instead of having a lesser restriction than the 30-year limit, as was intended by Congress, if the 50-year limit were enforced, the Port Authority would be subject to a more stringent limitation on toll collection than all other American bridges. Accordingly, I believe that my legislation is consistent with the intent behind the 1987 highway law to deregulate the collection of tolls nationwide.

The Port Authority is authorized to pledge its revenue, including that from tolls, to secure debts. To obtain financing for future economic development

and to preserve the bridges it owns and operates, the Port Authority must have a guaranteed revenue stream. Although a court very likely would rule that the fifty-year limit on toll collection was implicitly repealed by the Highway Act of 1987, without direct legislation to that effect, the Port Authority's bond counsel suggests it will be unable to borrow in the financial markets.

The importance of ensuring this borrowing ability is reflected in the Port Authority's essential role in the economic development of Southeastern Pennsylvania and Southern New Jersey. The Port Authority owns and operates the Benjamin Franklin, Betsy Ross, Commodore Barry, and Walt Whitman bridges as well as the mass transit PATCO High Speed Line. The Port Authority is involved in port unification through another of its subsidiaries, the Port of Philadelphia and Camden. Finally, the Port Authority has been instrumental in regional development and the commercial revitalization of the Philadelphia-Camden waterfront. Its programs include the addition of public attractions at Penns Landing and the Camden Aquarium as well as low-interest loans to expand Philadelphia's American Street Enterprise Zone.

Given the importance of revitalizing the Delaware River region, I urge my colleagues to support this legislation.●

ADDITIONAL COSPONSORS

S. 397

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 852

At the request of Mr. LOTT, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the "Death on the High Seas Act" to aviation accidents.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1924

At the request of Mr. MACK, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2017

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2213

At the request of Mr. FRIST, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2222

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 2259

At the request of Mr. MURKOWSKI, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2259, a bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program.

S. 2265

At the request of Mr. TORRICELLI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2265, a bill to amend the Social Security Act to waive the 24-month waiting period for medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS.

S. 2267

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans.

S. 2291

At the request of Mr. GRAMS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 2291, a bill to amend title 17, United States Code, to prevent the misappropriation of collections of information.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2323

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2323, a bill to amend title XVIII of the Social Security Act to preserve access to home health services under the medicare program.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 103, A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International

Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as "National Inhalant Abuse Awareness Day."

AMENDMENT NO. 3013

At the request of Mr. CAMPBELL the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

AMENDMENT NO. 3266

At the request of Mr. KYL the names of the Senator from Indiana [Mr. COATS], the Senator from Wyoming [Mr. ENZI], the Senator from Missouri [Mr. BOND], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of amendment No. 3266 proposed to S. 2260, an original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

SENATE CONCURRENT RESOLUTION 109—EXPRESSING THE SENSE OF CONGRESS RELATIVE TO EXECUTIVE DEPARTMENTS AND AGENCIES, NATIONAL POLICIES, AND FEDERALISM

Mr. COVERDELL (for himself, Mr. CRAIG, and Mr. ENZI) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 109

Whereas federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government;

Whereas the people of the States created the national government when they delegated to it those enumerated governmental powers relating to matters beyond the competence of the individual States;

Whereas all other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people as the tenth amendment to the Constitution requires;

Whereas the people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Act of Congress, to define the moral, political, and legal character of their lives;

Whereas in most areas of governmental concern, the States uniquely possess the constitutional authority, resources, and the competence to discern the sentiments of the people and to govern accordingly;

Whereas the nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires;

Whereas acts of the national government, whether executive, legislative, or judicial in nature, that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the framers;

Whereas policies of the national government should recognize the responsibility of, and should encourage opportunities for, individuals, families, neighborhoods, local governments, and private associations to achieve their personal, social, and economic objectives through cooperative effort; and

Whereas in the absence of clear constitutional or statutory authority, the presumption of sovereignty should rest with the individual States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That executive departments and agencies should adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(1) There should be strict adherence to constitutional principles. Executive departments and agencies should closely examine the constitutional and statutory authority supporting any Federal action that would limit the policymaking discretion of the States, and should carefully assess the necessity for such action. To the extent practicable, the States should be consulted before any such action is implemented.

(2) Federal action limiting the policymaking discretion of the States should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.

(3) It is important to recognize the distinction between problems of national scope (which may justify Federal action) and problems that are merely common to the States (which will not justify Federal action because individual States, acting individually or together, can effectively manage such issues).

(4) Constitutional authority for Federal action is clear and certain only when authority for the action may be found in a specific provision of the Constitution, when there is no provision in the Constitution prohibiting Federal action, and when the action does not encroach upon authority reserved to the States.

(5) With respect to national policies administered by the States, the national government should grant the States the maximum administrative discretion possible. Intrusive Federal oversight of State administration is neither necessary nor desirable.

(6) When undertaking to formulate and implement policies that have federalism implications, executive departments and agencies should—

(A) encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States;

(B) refrain, to the maximum extent possible, from establishing uniform, national standards for programs and, when possible, defer to the States to establish standards; and

(C) when national standards are required, consult with appropriate officials and organizations representing the States in developing those standards.

(7) The following special requirements for preemption of State law should be observed:

(A) To the extent permitted by law, executive departments and agencies should construe, in regulations and otherwise, a Federal statute to preempt a State law only when the statute contains an express preemption provision, when there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law, or when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

(B) If a Federal statute does not preempt State law, executive departments and agencies should construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the statute expressly authorizes issuance of preemptive regulations or when there is some other firm and palpable evidence compelling the conclusion that the Congress intended to delegate to the department or agency the authority to issue regulations preempting State law.

(C) Any regulatory preemption of State law should be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated.

(D) When an executive department or agency foresees the possibility of a conflict between State law and federally protected interests within its area of regulatory responsibility, the department or agency should consult, to the extent practicable, with appropriate officials and organizations representing the States in an effort to avoid such a conflict.

(E) When an executive department or agency proposes to act through adjudication or rulemaking to preempt State law, the department or agency should provide all affected States notice and an opportunity for appropriate participation in the proceedings.

Mr. COVERDELL. Mr. President, I rise today to speak on a concurrent resolution I have submitted, the subject of which is important not only to my constituents, but to anyone who stands by the Constitution of the United States. Ironically, while in England last May President Clinton, with little fanfare or media attention, issued Executive Order (EO) 13083. EO 13083 in both its letter and intent seeks to give executive departments and agencies greater preemptive authority over State and local law in the administration of Executive Branch policies. Ultimately this action is an attempt by the President to promote an agenda by circumventing Congress while subverting the Constitution and the principles of a limited federal government that the Framers were so careful to express in writing this document.

Mr. President, as members of Congress we have each taken an oath to

uphold the Constitution. The President has done the same. And as we all know, the Constitution is our nation's most important document. It establishes the way our government works; it establishes the freedoms American citizens enjoy; and it provides for protections of those freedoms.

The Framers understood that individual freedom and centralized power are incompatible. Thus they set out not only to decentralize our federal government, but also to balance the power held at the national level with the power held by individual states. The Tenth Amendment to the Constitution explicitly expresses this intent. It states "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." I believe that sentence is perfectly clear, yet our Federal Government continues to grow in size and scope. All three branches of the government are to blame.

Is this a reason, however, to allow continued federal infringement into state matters? Must we not at some point ask ourselves where we draw the line? I believe we must if we hope to preserve the meaning of the Constitution.

EO 13083 sacrifice states rights and Constitutional principles to empower further the Federal Government. It does so by broadly defining "matters of national or multi-state scope that justify Federal action." These loosely defined "matters" include any matter of concern that is not confined by a single state's boundaries; any matter involving a "need for national standards;" any matter in which "decentralization increases the costs of government;" any matter in which "States would be reluctant to impose necessary regulations because of fears that regulated business activity will relocate to other states;" and any matter related to "Federally owned or managed property or natural resources, trust obligation or international organizations." Such ambiguous terms give this Administration tremendous leeway to implement policies through executive order that might meet resistance in Congress—policies that deserve full consideration by Congress before becoming law. Indeed, a number of recent newspaper articles demonstrate the President's desires to move an agenda without Congressional approval. The President's EO would allow circumvention of Congress while trampling the Tenth Amendment. Mr. President, we should be wary of this.

This is why I submit today a concurrent resolution expressing the sense of Congress that the intent of the Framers must guide federal executive departments and agencies when carrying out policies with federalism implications. Through this concurrent resolution Congress would reaffirm the principles of federalism the Framers used in writing the Constitution and express its sense regarding the criteria federal agencies should use in formulating and implementing policies that have federalism implications. Mr. President, I find it difficult when one looks at this resolution in a constitutional context, which is the context in which we must evaluate this issue, to disagree with its findings and the criteria it establishes. I believe this Congress must make a statement on where it stands with the Executive Branch's attempts to encroach, through executive order, on states rights. This resolution is an opportunity for Congress to do so.

Mr. President, I ask through this resolution that each of us reaffirm the pledges we made when we first entered office. I ask that we recognize the importance of local and state governments, their abilities to solve their problems on their own terms and the powers given the states by the Constitution. I ask that we honor the Framers' intent to limit the power of the Federal government.

A number of organizations representing elected officials in all levels of local government have voiced objections to EO 13083. These include the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities and the International City/County Management Association. These groups are opposed to this order not only because of its content but because no official from state or local government was consulted in the drafting of the order. Mr. President, I submit for the RECORD a July 16, 1998, Washington Post article that describes the frustration these groups have with the Administration's lack of consultation. I find it strange that the Administration did not consult with the very groups this Executive Order would most affect.

This is not a political issue. This resolution seeks to address an executive action that strikes at the very foundation of our government and of our Constitutional values. The means by which the Clinton Administration hopes to achieve its objectives are an affront to the Constitution, the Congress, and the American people at large. It is the intent of this Executive Order issued by the President to subvert the will of Congress and the will of the people through executive decree. I cannot imagine this is how the Framers intended our Federal democracy to work and I urge Congress to remind the executive branch that it is more important to return to the principles established in our Constitution than to continue the trend of increasing federal authority.

Mr. President, I ask unanimous consent that the Los Angeles Times article be printed in the RECORD.

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

[From the Los Angeles Times, Sat., July 4, 1998]

CLINTON TO BYPASS CONGRESS IN BLITZ OF EXECUTIVE ORDERS

(By Elizabeth Shogren)

Policy: President will use strategy to move his domestic agenda past GOP resistance. He starts today with announcement of warning labels for unpasteurized juices

WASHINGTON.—Frustrated by a GOP—controlled Congress that lately has rebuffed him on almost every front, President Clinton plans a blitz of executive orders during the next few weeks, part of a White House strategy to make progress on Clinton's domestic agenda with or without congressional help.

His first unilateral strike will come today. According to a draft of Clinton's weekly radio address obtained by The Times, he plans to announce a few federal regulation requiring warning labels on containers of fruit and vegetable juices that have not been pasteurized. Congress has not fully funded Clinton's $101-million food safety initiative, which among other things would pay for inspectors to ensure that tainted foods from other countries do not reach American consumers.

After that initiative, Clinton will take executive actions later in the week that are intended to improve health care and cut juvenile crime, according to a senior White House official. While not far-reaching, Clinton's proposals are intended to make gradual progress on largely popular social reforms until Republicans in Congress start to cooperate—or lose power after the November elections.

"He's ready to work with Congress if they will work with him. But if they choose partisanship, he will choose progress," said Rahm Emanuel, senior policy advisor to the president. The power to issue executive orders originally was intended to give presidents rule-making authority over the executive branch. But many have used it instead for sweeping public policy decisions.

Fresh from what aides view as a triumphant trip to China, Clinton is reportedly eager to exercise his executive powers to the hilt.

"He always comes back from these trips with a big head of steam, and this trip has been especially remarkable," said Paul Begala, another senior advisor. "This president has a very strong sense of the powers of the presidency, and is willing to use all of them."

Mindful of the recent Supreme Court decision striking down the line-item veto authority Clinton won last term, the president also hopes his executive-order offensive will pressure Congress to enact his legislative priorities, Emanuel said. "I am doing what I can to protect our families from contaminated food," Clinton says in the draft of today's radio address. "But Congress must do its part."

The latest series of executive orders is illustrative of a president who has used his unilateral authority more robustly and frequently than most of his predecessors.

Just last month, after the Senate rejected sweeping anti-smoking legislation, Clinton announced a survey on what cigarette brands teenagers smoke—in hopes of shaming the tobacco companies into getting serious about cutting teen smoking.

On the same day, eager to make health care fixes that Congress has not, he announced new coverage under the Medicare

health insurance program for the elderly and charged federal agencies with signing up millions more poor children for Medicaid.

Some in Congress have argued that Clinton's use of executive authority has gone too far, and several outside critics agree. "Clinton is pushing the envelope," says David Schoenbrod, a professor at New York Law School who is an expert in the field. "He's consistently trying to take more power than Congress gives him.".

With most of his executive orders, no matter how incremental, Clinton hopes to prod Congress to pass more ambitious versions. For instance, last year he extended broader family leave provisions for federal employees while pushing Congress to pass legislation to provide similar opportunities for all other workers.

Clinton forewarned the country about his zeal for exercising executive powers in his 1992 acceptance speech at the Democratic National Convention, saying: "President Bush: If you won't use your power to help people, step aside, I will." Of course, other presidents have used executive authority to meet their policy goals. Abraham Lincoln used it to declare the slaves free. Franklin D. Roosevelt used it to help set up the New Deal. Harry S. Truman used it to integrate the armed forces. But Clinton has rewritten the manual on how to use executive powers with gusto, some professors and analysts argue. His formula includes pressing the limits of his regulatory authority, signing executive orders and using other unilateral means to obtain his policy priorities when Congress fails to embrace them.

Clearly, the growing antagonism between the president and Congress makes it likely that Clinton will continue to govern by fiat.

"It depends on the political environment whether presidents push their limits or not," said Marci Hamilton, professor of constitutional law at Cardozo Law School in New York. "Clinton has more incentive to do it because he's stuck with a Congress that is not politically aligned with him." This is all the more true this year, since Congress feels empowered to ignore the president as a result of the legal crisis he faces because of independent counsel Kenneth W. Starr's investigation.

"This president has extraordinary lame-duck status," Hamilton added. "There is very little incentive for Congress to go along with him. A president who has a strong working relationship and looks powerful to Congress is less likely to push the limits." But analysts charge that Congress continues to create the problem by ceding so much authority to the president. In one recent example, Congress directed the Federal Communications Commission to subsidize the wiring of schools, libraries and rural health care facilities for high-speed Internet access, but did not provide the money to do so. Now it blames the FCC for passing on costs to telephone companies, which are in turn passing on costs to consumers.

"The bottom line is the Congress gave the administration power to do this. But they'd like to have it both ways," said Jeremy Taylor, "They want to say: 'I voted for universal Internet service, but I did not vote for a tax hike to pay for it.' It's this lack of responsibility on the part of Congress that has transformed American politics."

AMENDMENTS SUBMITTED

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

NICKLES (AND OTHERS) AMENDMENT NO. 3272

Mr. NICKLES (for himself, Mr. INHOFE, and Mr. SESSIONS) proposed an amendment to the bill (S. 2260) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. COMPENSATION OF ATTORNEYS.

(a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

"(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).".

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking "Payment" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), payment"; and

(2) by adding at the end the following:

"(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3273

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert:

Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (b) by inserting "or of any federally recognized Indian tribe," after "State or municipality,".

DEWINE (AND LEAHY) AMENDMENT NO. 3274

Mr. GREGG (for Mr. DEWINE for himself and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Local Government Law Enforcement Block Grant Act of 1998".

(b) DEFINITIONS.—In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

(2) JUVENILE.—The term "juvenile" means an individual who is 17 years of age or younger.

(3) LAW ENFORCEMENT EXPENDITURES.—The term "law enforcement expenditures" means the current operation expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census.

(4) PART 1 VIOLENT CRIMES.—The term "part 1 violent crimes" means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

(5) PAYMENT PERIOD.—The term "payment period" means each 1-year period beginning on October 1 of any year in which a grant under this Act is awarded.

(6) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 5(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

(7) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a general purpose unit of local government, as determined by the Secretary of Commerce for general statistical purposes, including a parish sheriff in the State of Louisiana;

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers; and

(C) the Commonwealth of Puerto Rico, in addition to being considered a State, for the purposes set forth in section 2(a)(2).

SEC. 2. PAYMENTS TO LOCAL GOVERNMENTS.

(a) PAYMENT AND USE.—

(1) PAYMENT.—The Director shall pay to each unit of local government that qualifies for a payment under this Act an amount equal to the sum of any amounts allocated to such unit under this Act for each payment period. The Director shall pay such amount from amounts appropriated to carry out this Act.

(2) USE.—Amounts paid to a unit of local government under this section shall be used by the unit for reducing crime and improving

public safety, including but not limited to, 1 or more of the following purposes:

(A)(i) Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel.

(ii) Paying overtime to presently employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel.

(iii) Procuring equipment, technology, and other material directly related to basic law enforcement functions.

(B) Enhancing security measures—

(i) in and around schools; and

(ii) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime.

(C) Establishing crime prevention programs that may, though not exclusively, involve law enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood watch and citizen patrol programs, sexual assault and domestic violence programs, and programs intended to prevent juvenile crime.

(D) Establishing or supporting drug courts.

(E) Establishing early intervention and prevention programs for juveniles to reduce or eliminate crime.

(F) Enhancing the adjudication process of cases involving violent offenders, including the adjudication process of cases involving violent juvenile offenders.

(G) Enhancing programs under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

(H) Establishing cooperative task forces between adjoining units of local government to work cooperatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug or gang-related involvement.

(I) Establishing a multijurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of local government, that works with Federal law enforcement officials to prevent and control crime.

(J) Establishing or supporting programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests.

(3) DEFINITIONS.—In this subsection—

(A) the term "violent offender" means a person charged with committing a part I violent crime; and

(B) the term "drug courts" means a program that involves—

(i) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

(ii) the integrated administration of other sanctions and services, which shall include—

(I) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(II) substance abuse treatment for each participant;

(III) probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(IV) programmatic, offender management, and aftercare services such as relapse prevention, vocational job training, job placement, and housing placement.

(b) PROHIBITED USES.—Notwithstanding any other provision of this Act, a unit of local government may not expend any of the funds provided under this Act to purchase, lease, rent, or otherwise acquire—

(1) tanks or armored personnel carriers;

(2) fixed wing aircraft;

(3) limousines;

(4) real estate;

(5) yachts;

(6) consultants; or

(7) vehicles not primarily used for law enforcement;

unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of funds for such purposes essential to the maintenance of public safety and good order in such unit of local government. With regard to paragraph (2), such circumstances shall be deemed to exist with respect to a unit of local government in a rural State, as defined in section 1501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb), upon certification by the chief law enforcement officer of the unit of local government that the unit of local government is experiencing an increase in production or cultivation of a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), and that the fixed wing aircraft will be used in the detection, disruption, or abatement of such production or cultivation.

(c) TIMING OF PAYMENTS.—The Director shall pay each unit of local government that has submitted an application under this Act not later than the later of—

(1) 90 days after the date that the amount is available; or

(2) the first day of the payment period if the unit of local government has provided the Director with the assurances required by section 4(c).

(d) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Director shall adjust a payment under this Act to a unit of local government to the extent that a prior payment to the unit of local government was more or less than the amount required to be paid.

(2) CONSIDERATIONS.—The Director may increase or decrease under this subsection a payment to a unit of local government only if the Director determines the need for the increase or decrease, or if the unit requests the increase or decrease, not later than 1 year after the end of the payment period for which a payment was made.

(e) RESERVATION FOR ADJUSTMENT.—The Director may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of local government in a State if the Director considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of local government in the State.

(f) REPAYMENT OF UNEXPENDED AMOUNTS.—

(1) REPAYMENT REQUIRED.—A unit of local government shall repay to the Director, by not later than 27 months after receipt of funds from the Director, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within 2 years after receipt of such funds from the Director.

(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Director shall reduce payment in future payment periods accordingly.

(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Director as repayments under this subsection shall be deposited in a designated fund for future payments to units of local government. Any amounts remaining in such designated fund after 5 years following the date of enactment of this Act shall be applied to the Federal deficit or, if there is no Federal deficit, to reducing the Federal debt.

(g) NONSUPPLANTING REQUIREMENT.—Funds made available under this Act to units of local government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds made available under this Act, be made available from State or local sources.

(h) MATCHING FUNDS.—The Federal share of a grant received under this Act may not exceed 90 percent of the costs of a program or proposal funded under this Act. No funds provided under this Act may be used as matching funds for any other Federal grant program.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act $750,000,000 for each of fiscal years 1998 through 2003.

(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—Not more than 3 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1998 through 2003 shall be available to the Attorney General for studying the overall effectiveness and efficiency of the provisions of this Act, and assuring compliance with the provisions of this Act and for administrative costs to carry out the purposes of this Act. From the amount described in the preceding sentence, the Bureau of Justice Assistance shall receive such sums as may be necessary for the actual costs of administration and monitoring. The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients. Such sums are to remain available until expended.

(c) FUNDING SOURCE.—Appropriations for activities authorized in this Act may be made from the Violent Crime Reduction Trust Fund.

(d) TECHNOLOGY ASSISTANCE.—Of the amount appropriated under subsection (a) for each of fiscal years 1998 through 2003, the Attorney General shall reserve—

(1) 3 percent for use by the Bureau of Justice Statistics for information and identification technology, including the Integrated Automated Fingerprint Identification System (IAFIS), DNA, and ballistics systems; and

(2) 3 percent for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement.

(e) AVAILABILITY.—The amounts appropriated under subsection (a) shall remain available until expended.

SEC. 4. QUALIFICATION FOR PAYMENT.

(a) IN GENERAL.—The Director shall issue regulations establishing procedures under which a unit of local government is required to provide notice to the Director regarding the proposed use of funds made available under this Act.

(b) PROGRAM REVIEW.—The Director shall establish a process for the ongoing evaluation of projects developed with funds made available under this Act.

(c) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit of local government

submits an application to the Director and establishes, to the satisfaction of the Director, that—

(1) the unit of local government has established a local advisory board that—

(A) includes, but is not limited to, a representative from—

(i) the local police department or local sheriff's department;

(ii) the local prosecutor's office;

(iii) the local court system;

(iv) the local public school system; and

(v) a local nonprofit, educational, religious, or community group active in crime prevention or drug use prevention or treatment;

(B) has reviewed the application; and

(C) is designated to make nonbinding recommendations to the unit of local government for the use of funds received under this Act;

(2) the chief executive officer of the State has had not less than 20 days to review and comment on the application prior to submission to the Director;

(3)(A) the unit of local government will establish a trust fund in which the government will deposit all payments received under this Act; and

(B) the unit of local government will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the unit of local government;

(4) the unit of local government will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the unit of local government;

(5) the unit of local government will use accounting, audit, and fiscal procedures that conform to guidelines, which shall be prescribed by the Director after consultation with the Comptroller General of the United States and as applicable, amounts received under this Act shall be audited in compliance with the Single Audit Act of 1984;

(6) after reasonable notice from the Director or the Comptroller General of the United States to the unit of local government, the unit of local government will make available to the Director and the Comptroller General of the United States, with the right to inspect, records that the Director reasonably requires to review compliance with this Act or that the Comptroller General of the United States reasonably requires to review compliance and operation;

(7) a designated official of the unit of local government shall make reports the Director reasonably requires, in addition to the annual reports required under this Act;

(8) the unit of local government will spend the funds made available under this Act only for the purposes set forth in section 2(a)(2);

(9) the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service if such unit uses funds received under this Act to increase the number of law enforcement officers as described under section 2(a)(2)(A);

(10) the unit of local government—

(A) has an adequate process to assess the impact of any enhancement of a school security measure that is undertaken under section 2(a)(2)(B), or any crime prevention programs that are established under subparagraphs (C) and (E) of section 2(a)(2), on the incidence of crime in the geographic area where the enhancement is undertaken or the program is established;

(B) will conduct such an assessment with respect to each such enhancement or program; and

(C) will submit an annual written assessment report to the Director; and

(11) the unit of local government has established procedures to give members of the Armed Forces who, on or after October 1, 1990, were or are selected for involuntary separation (as described in section 1141 of title 10, United States Code), approved for separation under section 1174a or 1175 of such title, or retired pursuant to the authority provided under section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 1293 note), a suitable preference in the employment of persons as additional law enforcement officers or support personnel using funds made available under this Act. The nature and extent of such employment preference shall be jointly established by the Attorney General and the Secretary of Defense. To the extent practicable, the Director shall endeavor to inform members who were separated between October 1, 1990, and the date of enactment of this Act of their eligibility for the employment preference.

(d) SANCTIONS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—If the Director determines that a unit of local government has not complied substantially with the requirements or regulations prescribed under subsections (a) and (c), the Director shall notify the unit of local government that if the unit of local government does not take corrective action within 60 days of such notice, the Director will withhold additional payments to the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government—

(A) has taken the appropriate corrective action; and

(B) will comply with the requirements and regulations prescribed under subsections (a) and (c).

(2) NOTICE.—Before giving notice under paragraph (1), the Director shall give the chief executive officer of the unit of local government reasonable notice and an opportunity for comment.

(e) MAINTENANCE OF EFFORT REQUIREMENT.—A unit of local government qualifies for a payment under this Act for a payment period only if the unit's expenditures on law enforcement services (as reported by the Bureau of the Census) for the fiscal year preceding the fiscal year in which the payment period occurs were not less than 90 percent of the unit's expenditures on such services for the second fiscal year preceding the fiscal year in which the payment period occurs.

SEC. 5. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) STATE SET-ASIDE.—

(1) IN GENERAL.—Of the total amounts appropriated for this Act for each payment period, the Director shall allocate for units of local government in each State an amount that bears the same ratio to such total as the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

(2) MINIMUM REQUIREMENT.—Each State shall receive not less than 0.5 percent of the total amounts appropriated under section 3 under this subsection for each payment period.

(3) PROPORTIONAL REDUCTION.—If amounts available to carry out paragraph (2) for any payment period are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (1) for such period, then the Director shall reduce payments under paragraph (1) for such payment period to the extent of such insufficiency. Reductions under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (2)) in the same proportions as amounts would be allocated under paragraph (1) without regard to paragraph (2).

(b) LOCAL DISTRIBUTION.—

(1) IN GENERAL.—From the amount reserved for each State under subsection (a), the Director shall allocate among units of local government an amount that bears the same ratio to the aggregate amount of such funds as

(A) the product of—

(i) two-thirds; multiplied by

(ii) the ratio of the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, to the sum of such violent crime in all units of local government in the State; and

(B) the product of—

(i) one-third; multiplied by

(ii) the ratio of the law enforcement expenditure, for such unit of local government for the most recent year for which such data are available, to such expenditures for all units of local government in the State.

(2) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

(3) REALLOCATION.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

(4) LOCAL GOVERNMENTS WITH ALLOCATIONS OF LESS THAN $10,000.—If under paragraph (1) a unit of local government is allotted less than $10,000 for the payment period, the amount allotted shall be transferred to the chief executive officer of the State who shall distribute such funds among State police departments that provide law enforcement services to units of local government and units of local government whose allotment is less than such amount in a manner that reduces crime and improves public safety.

(5) SPECIAL RULE.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Director in making allocations pursuant to this section, the Director shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

(c) GRANTS TO INDIAN TRIBES.—Notwithstanding subsections (a) and (b), of the amount appropriated under section 3(a) in each of fiscal years 1998 through 2003, the Attorney General shall reserve 0.3 percent for grants to Indian tribal governments performing law enforcement functions, to be used for the purposes described in section 2. To be eligible to receive a grant with amounts set aside under this subsection, an Indian tribal government shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(d) UNAVAILABILITY AND INACCURACY OF INFORMATION.—

(1) DATA FOR STATES.—For purposes of this section, if data regarding part 1 violent

crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data regarding the number of violent crimes for such years for such State for the purposes of allocation of any funds under this Act.

(2) POSSIBLE INACCURACY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—In addition to the provisions of paragraph (1), if the Director believes that the reported rate of part 1 violent crimes or legal expenditure information for a unit of local government is insufficient or inaccurate, the Director shall—

(A) investigate the methodology used by such unit to determine the accuracy of the submitted data; and

(B) when necessary, use the best available comparable data regarding the number of violent crimes or legal expenditure information for such years for such unit of local government.

SEC. 6. UTILIZATION OF PRIVATE SECTOR.

Funds or a portion of funds allocated under this Act may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 2(a)(2).

SEC. 7. PUBLIC PARTICIPATION.

(a) IN GENERAL.—A unit of local government expending payments under this Act shall hold not less than 1 public hearing on the proposed use of the payment from the Director in relation to its entire budget.

(b) VIEWS.—At the hearing, persons shall be given an opportunity to provide written and oral views to the unit of local government authority responsible for enacting the budget.

(c) TIME AND PLACE.—The unit of local government shall hold the hearing at a time and place that allows and encourages public attendance and participation.

SEC. 8. ADMINISTRATIVE PROVISIONS.

The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782 et seq.), shall apply to this Act and for purposes of this section any reference in such provisions to title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall be deemed to be a reference to this Act.

KERREY (AND HAGEL) AMENDMENT NO. 3275

Mr. KERREY (for himself and Mr. HAGEL) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, after line 11, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

KERRY (AND OTHERS) AMENDMENT NO. 3276

Mr. KERRY (for himself, Mr. MCCAIN, Mr. KERREY, and Mr. HAGEL) proposed an amendment to the bill, S. 2260, supra; as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

GREGG (AND HOLLINGS) AMENDMENTS NOS. 3277-3279

Mr. GREGG (for himself and Mr. HOLLINGS) proposed three amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3277

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: "*Provided further*, That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video provider (including off-air, cable and satellite distribution)."

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available for this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEC. . For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE—

SECTION 1. SHORT TITLE.

This title may be cited as the "National Whale Conservation Fund Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn

about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubaleana glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

"(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

"(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

"(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

"(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

"(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

"(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1)—

"(I) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section; or

"(II) any amount (or portion thereof) received by the Secretary as a settlement or award for damages in a civil action or other legal proceeding relating to damage of natural resources.

"(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

"(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

"(A) are the most endangered (including the northern right whale (Eubaleana glacialis)); or

"(B) most warrant, and are most likely to benefit from, research managment, or educational activities that may be funded with amounts made available from the fund.

"(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.".

LIEBERMAN (AND OTHERS) AMENDMENT NO. 3280

Mr. LIEBERMAN (for himself, Mr. THOMAS, Mr. GRAHAM, Mr. LUGAR, Mr. BINGAMAN, Mr. MACK, Mr. DURBIN, Mr. INHOFE, Mr. KOHL, Mr. REID, Mr. BREAUX, Mr. BROWNBACK, Mr. CRAIG, and Mr. SMITH of Oregon) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6___. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will contract by 1.5 percent in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive price pressures on United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.

(11) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States gross domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 11,500,000,000,000 yen in government spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) The American people and the countries of East and Southeast Asia are looking for a demonstration of Japanese leadership and close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking

reform, market deregulation, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of the new Prime Minister of Japan and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

BUMPERS AMENDMENT NO. 3281

Mr. GREGG (for Mr. BUMPERS) proposed an amendment the bill, S. 2260, supra; as follows:

At the appropriate place add the following:

SEC. .

(a) Add the following at the end of 8 U.S.C. 1153(b)(5)(C):

(iv) DEFINITION

(A) As used in this subsection the term 'capital' means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a period that payback exceeds 2 months.

(B) Assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioner's sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry, prior to approval of conditional lawful permanent resident status.

(b) This section shall not apply to any application filed prior to July 23, 1998.

FEINSTEIN AMENDMENT NO. 3282

Mrs. FEINSTEIN proposed an amendment to amendment No. 3258 proposed by Mr. SMITH of Oregon to the bill, S. 2260, supra; as follows:

On page 20, line 19, after the period, insert:

Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H2-A visas that they may sponsor at the discretion of the Secretary of Labor.

KENNEDY AMENDMENT NO. 3283

Mr. KENNEDY proposed an amendment to amendment No. 3258 proposed by Mr. SMITH of Oregon to the bill, S. 2260, supra; as follows:

At the end of the amendment add the following:

SEC. . PRESIDENTIAL AUTHORITY.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles:

Where the procedures for using the program are simple and the least burdensome for growers;

Which assures an adequate labor supply for growers in a predictable and timely manner;

That provides a clear and meaningful first preference for U.S. farm workers and a means for mitigating against the development of a structural dependency on foreign workers in an area or crop;

Which avoids the transfer of costs and risks from businesses to low wage workers;

That encourages longer periods of employment for legal U.S. workers; and

Which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

GREGG (AND HOLLINGS) AMENDMENT NO. 3284

Mr. GREGG (for himself and Mr. HOLLINGS) proposed an amendment to the bill, S. 2260, supra; as follows:

TITLE I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert "forfeited" after the first comma.

On page 45, line 17, insert "13" and insert "286".

On page 5 of the Bill, on lines 8 and 9, strike the following: "National Consortium for First Responders", and insert the following: "National Domestic Preparedness Consortium".

On page 27 of the Bill, on line 10, after the words "unit of local government", insert the words "at the parish level".

On page 29 of the Bill, on line 13 after "Tribal Courts Initiative", insert the following:

", including $400,000 for the establishment of a Sioux Nation Tribal, Supreme Court"

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking "or";

(2) in subsection (g)(3), by striking "minimally sufficient" and inserting "State sexual offender"; and

(3) by amending subsection (i) to read as follows:

"(i) PENALTY.—A person who is—

"(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

"(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

"(3) described in section 4042 (c)(4) of title 18, United States Code and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

"(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law No. 105-119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second of subsequent offense under this subsection, be imprisoned for not more than 10 years.".

On page 51 of the Bill, after line 9, insert the following:

SEC. 123. (a) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

"(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a residential training center. The Director may approve training conducted in not more than 3 separate sessions.".

(b) CONFORMING AMENDMENT.—Section 200108 (c) of the Police Corps Act (42 U.S.C. 14097 (c)) is amended by striking "16 weeks of".

(c) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking "$20,000" and all that follows before the period and inserting "$50,000,000 for fiscal year 1999, $70,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $90,000,000 for fiscal year 2002".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

On page 66, line 5, strike the proviso "*Provided further*, That $587,922,000 shall be made available for the Procurement, acquisition and construction account in fiscal year 1999:" and insert in lieu thereof "*Provided further*, That of the $10,500,000 available for the estuarine research reserve system, $2,000,000 shall be made available for the Office of response and restoration and $1,160,000 shall be made available for Navigation services, mapping and charting: *Provided further*, That of funds made available for the National Marine Fisheries Service information collection and analyses, $400,000 shall be made available to continue Atlantic Herring and Mackerel studies: *Provided further*, That of the $8,500,000 provided for the interstate fisheries commissions, $7,000,000 shall be provided to the Atlantic States Marine Fisheries Commission for the Atlantic Coastal Cooperative Fisheries Management Act, $750,000 shall be provided for the Atlantic Coastal Cooperative Statistics Program, and the remainder shall be provided to each of the three interstate fisheries commissions (including the ASMFC): *Provided further*, That within the Procurement, Acquisition and Construction account that $3,000,000 shall be made available for the National Estuarine Research Reserve construction * * * and $5,000,000 shall be made available for Great Bay land acquisition."

On page 72, line 15, after "(3)(L)", replace the brackets with parentheses around the phrase "as identified by the Governor" and on line 16, before the period add a quotation mark.

TITLE V—INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

On page 116, line 17, change "1998" to "1999" and "1999" to "2000".

On page 117, line 6, strike "to this appropriation and used for necessary expenses of the agency" and insert in lieu thereof "to and merged with the appropriations for salaries and expenses:"

On page 117, line 12, strike "20 (n)(2)(B)" and insert in lieu thereof "20(d)(1)(B)(ii)".

MOSELEY-BRAUN AMENDMENT NO. 3285

Mr. GREGG (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

"(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section,

the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

"(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"2261. Publication of identifying information relating to a minor for criminal sexual purposes.".

DODD AMENDMENT NO. 3286

Mr. GREGG (for Mr. DODD) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) REQUIREMENT.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

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

(2) by inserting after subsection (c) the following new subsection (d):

"(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—

"(1) IN GENERAL.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

"(2) DEFINITIONS.—As used in this subsection:

"(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

"(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.".

"(C) SCREENING SOFTWARE.—The term 'screening software' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

SPECTER (AND OTHERS) AMENDMENT NO. 3287

Mr. GREGG (for Mr. SPECTER for himself, Mr. SANTORUM, and Mr. DURBIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert:

SEC. . TRANSFER OF COUNTY.

(a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

BYRD AMENDMENT NO. 3288

Mr. GREGG (for Mr. BYRD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. ___. REPORT ON KOREAN STEEL SUBSIDIES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the "Trade Representative") shall report to Congress on the Trade Representative's analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative's contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative's contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION.—The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

MURKOWSKI (AND STEVENS) AMENDMENT NO. 3289

Mr. GREGG (for Mr. MURKOWSKI for himself and Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:

On Page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise made available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GMDSS).

KYL AMENDMENTS NOS. 3290–3291

Mr. GREGG (for Mr. KYL) proposed two amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3290

At the appropriate place, insert the following:

SEC. ___. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

AMENDMENT NO. 3291

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) DELAYED COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) PERIOD OF VALIDITY OF VISAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been waived under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) RECOUPMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such combined border crossing cards and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIES.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been required to be replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 116(b)(2) of this Act), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

GRAHAM AMENDMENT NO. 3292

Mr. GREGG (for Mr. GRAHAM) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) The purpose of this section is to protect the national security interests of the United States while studying the appropriate level of resources to improve the issuance of visas to legitimate foreign travelers.

(b) Congress recognizes the importance of maintaining quality service by consular officers in the processing of applications for nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(c) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(1) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(2) the adequacy of service to international tourism;

(3) the adequacy of computer and technical support to consular posts; and

(4) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(d)(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to Congress setting forth—

(A) the results of the study conducted under subsection (c); and

(B) the steps the Secretary has taken to implement timeliness standards.

(2) Beginning one year after the date of submission of the report required by paragraph (1), and annually thereafter, the Secretary of State shall submit a report to Congress describing the implementation of timeliness standards during the preceding year.

(e) In this section—

(1) the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) the term "timeliness standards" means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

LOTT AMENDMENT NO. 3293

Mr. GREGG (for Mr. LOTT) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 86, line 8, insert the following after the colon:

Provided further, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons;

At the end to title VII, insert the following:

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

(RESCISSION)

Of the total amount of appropriations provided in Acts enacted before this Act for the Interparliamentary Union, $400,000 is rescinded.

BIDEN AMENDMENT NO. 3294

Mr. GREGG (for Mr. BIDEN) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 96, strike lines 3 through 16.

At the appropriate place in the bill, insert the following:

SEC. ____. (a) SHORT TITLE.—This Act may be cited as the "American Competitiveness Act".

(b) REFERENCES IN ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or a repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(c) Congress makes the following findings:

(1) American companies today are engaged in fierce competition in global markets.

(2) Companies across America are faced with severe high skill labor shortages that threaten their competitiveness.

(3) The National Software Alliance, a consortium of concerned government, industry, and academic leaders that includes the United States Army, Navy, and Air Force, has concluded that "The supply of computer science graduates is far short of the number needed by industry.". The Alliance concludes that the current severe understaffing could lead to inflation and lower productivity.

(4) The Department of Labor projects that the United States economy will produce more than 130,000 information technology jobs in each of the next 10 years, for a total of more than 1,300,000.

(5) Between 1986 and 1995, the number of bachelor's degrees awarded in computer science declined by 42 percent. Therefore, any short-term increases in enrollment may only return the United States to the 1986 level of graduates and take several years to produce these additional graduates.

(6) A study conducted by Virginia Tech for the Information Technology Association of America estimates that there are more than 340,000 unfilled positions for highly skilled information technology workers in American companies.

(7) The Hudson Institute estimates that the unaddressed shortage of skilled workers throughout the United States economy will result in a 5-percent drop in the growth rate of GDP. That translates into approximately $200,000,000,000 in lost output, nearly $1,000 for every American.

(8) It is necessary to deal with the current situation with both short-term and long-term measures.

(9) In fiscal year 1997, United States companies and universities reached the cap of 65,000 on H-1B temporary visas a month before the end of the fiscal year. In fiscal year 1998 the cap is expected to be reached as early as May if Congress takes no action. And it will be hit earlier each year until backlogs develop of such a magnitude as to prevent United States companies and researchers from having any timely access to skilled foreign-born professionals.

(10) It is vital that more American young people be encouraged and equipped to enter technical fields, such as mathematics, engineering, and computer science.

(11) If American companies cannot find home-grown talent, and if they cannot bring talent to this country, a large number are likely to move key operations overseas, sending those and related American jobs with them.

(12) Inaction in these areas will carry significant consequences for the future of American competitiveness around the world and will seriously undermine efforts to create and keep jobs in the United States.

(d) ESTABLISHMENT OF H1-C NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(A) by inserting "and other than services described in clause (c)" after "subparagraph (O) or (P)"; and

(B) by inserting after "section 212(n)(1)" the following: ", or (c) who is coming temporarily to the United States to perform labor

as a health care worker, other than a physician, in a specialty occupation described in section 214(i)(1), who meets the requirements of the occupation specified in section 214(i)(2), who qualifies for the exemption from the grounds of inadmissibility described in section 212(a)(5)(C), and with respect to whom the Attorney General certifies that the intending employer has filed with the Attorney General an application under section 212(n)(1).".

(2) CONFORMING AMENDMENTS.—

(A) Section 212(n)(1) is amended by inserting "or (c)" after "section 101(a)(15)(H)(i)(b)" each place it appears.

(B) Section 214(i) is amended by inserting "or (c)" after "section 101(a)(15)(H)(i)(b)" each place it appears.

(3) TRANSITION RULE.—Any petition filed prior to the date of enactment of this Act, for issuance of a visa under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act on behalf of an alien described in the amendment made by paragraph (1)(B) shall, on and after that date, be treated as a petition filed under section 101(a)(15)(H)(i)(c) of that Act, as added by paragraph (1).

(e) ANNUAL CEILINGS FOR H1–B AND H1–C WORKERS.—

(1) AMENDMENT OF THE INA.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended to read as follows:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year—

"(A) under section 101(a)(15)(H)(i)(b)—

"(i) for each of fiscal years 1992 through 1997, and for any other fiscal year for which this subsection does not specify a higher ceiling, may not exceed 65,000,

"(ii) for fiscal year 1998, may not exceed 95,000,

"(iii) for fiscal year 1999, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, and

"(iv) for fiscal year 2000, and each applicable fiscal year thereafter through fiscal year 2002, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, plus the number of unused visas under subparagraph (C) for the fiscal year preceding the applicable fiscal year;

"(B) under section 101(a)(15)(H)(ii)(b), beginning with fiscal year 1992, may not exceed 66,000; or

"(C) under section 101(a)(15)(H)(i)(c), beginning with fiscal year 1999, may not exceed 10,000.

For purposes of determining the ceiling under subparagraph (A) (iii) and (iv), not more than 20,000 of the unused visas under subparagraph (B) may be taken into account for any fiscal year.".

(2) TRANSITION PROCEDURES.—Any visa issued or nonimmigrant status otherwise accorded to any alien under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act pursuant to a petition filed during fiscal year 1998 but approved on or after October 1, 1998, shall be counted against the applicable ceiling in section 214(g)(1) of that Act for fiscal year 1998 (as amended by paragraph (1) of this subsection), except that, in the case where counting the visa or the other granting of status would cause the applicable ceiling for fiscal year 1998 to be exceeded, the visa or grant of status shall be counted against the applicable ceiling for fiscal year 1999.

(f) DEGREES IN MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING.—Subpart 4 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

"(3) MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.".

(g) INCREASED PENALTIES FOR VIOLATIONS OF H1–B OR H1–C PROGRAM.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) by striking "a failure to meet" and all that follows through "an application—" and inserting "a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application—"; and

(2) in clause (i), by striking "$1,000" and inserting "$5,000".

(h) SPOT INSPECTIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D) The Secretary of Labor may, on a case-by-case basis, subject an employer to random inspections for a period of up to five years beginning on the date that such employer is found by the Secretary of Labor to have engaged in a willful failure to meet a condition of subparagraph (A), or a misrepresentation of material fact in an application.".

(i) LAYOFF PROTECTION FOR UNITED STATES WORKERS.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b), is further amended by adding at the end the following:

"(F)(i) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application, in the course of which the employer has replaced a United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c) within the 6-month period prior to, or within 90 days following, the filing of the application—

"(I) the Secretary shall notify the Attorney General of such finding, and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to the employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

"(ii) For purposes of this subparagraph:

"(I) The term 'replace' means the employment of the nonimmigrant at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

"(II) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at the equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(III) The term 'United States worker' means—

"(aa) a citizen or national of the United States;

"(bb) an alien who is lawfully admitted for permanent residence; or

"(cc) an alien authorized to be employed by this Act or by the Attorney General.".

(j) PROHIBITION OF USE OF H–1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.".

(k) EXPEDITED REVIEWS AND DECISIONS.—Section 214(c)(2)(C) (8 U.S.C. 1184(c)(2)(C)) is amended by inserting "or section 101(a)(15)(H)(i)(b)" after "section 101(a)(15)(L)".

(l) DETERMINATIONS ON LABOR CONDITION APPLICATIONS TO BE MADE BY ATTORNEY GENERAL.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by striking "with respect to whom" and all that follows through "with the Secretary" and inserting "with respect to whom the Attorney General determines that the intending employer has filed with the Attorney General".

(2) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)(1)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Secretary of Labor" and inserting "Attorney General";

(ii) in the sixth and eighth sentences, by inserting "of Labor" after "Secretary" each place it appears;

(iii) in the ninth sentence, by striking "Secretary of Labor" and inserting "Attorney General";

(iv) by amending the tenth sentence to read as follows: "Unless the Attorney General finds that the application is incomplete or obviously inaccurate, the Attorney General shall provide the certification described in section 101(a)(15)(H)(i)(b) and adjudicate the nonimmigrant visa petition."; and

(v) by inserting in full measure margin after subparagraph (D) the following new sentence: "Such application shall be filed with the employer's petition for a nonimmigrant visa for the alien, and the Attorney General shall transmit a copy of such application to the Secretary of Labor."; and

(B) in the first sentence of paragraph (2)(A), by striking "Secretary" and inserting "Secretary of Labor".

(3) COSTS.—Any additional spending made necessary by reason of the enactment of the amendments made by this subsection shall be effective only to the extent and in the amounts provided in an appropriations Act.

(m) PREVAILING WAGE CONSIDERATIONS.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

"(i)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of section 212(n)(1)(A)(i)(II) and section 212(a)(5)(A) in the case of an employee of—

"(A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or

"(B) a nonprofit or Federal research institute or agency,

the prevailing wage level shall only take into account employees at such institutions, entities, and agencies in the area of employment.

"(2) With respect to a professional athlete (as defined in section 212(a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.

"(3) To determine the prevailing wage, employers may use either government or nongovernment published surveys, including industry, region, or statewide wage surveys, to determine the prevailing wage, which shall be considered correct and valid if the survey was conducted in accordance with generally accepted industry standards and the employer has maintained a copy of the survey information.".

(n) POSTING REQUIREMENT.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

"(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in a conspicuous location, or electronic posting through an internal job bank, or electronic notification available to employees in the occupational classification.".

(o) Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

"(3) Using data from petitions for visas issued under section 101(a)(15)(H)(i)(b), the Attorney General shall annually submit the following reports to Congress:

"(A) Quarterly reports on the numbers of aliens who were provided nonimmigrant status under section 101(a)(15)(H)(i)(b) during the previous quarter and who were subject to the numerical ceiling for the fiscal year established under section 214(g)(1).

"(B) Annual reports on the occupations and compensation of aliens provided nonimmigrant status under such section during the previous fiscal year.".

(p) STUDY.—The National Science Foundation shall oversee a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations, to assess the labor market needs for workers with high technology skills during the 10-year period beginning on the date of enactment of this Act. The study shall focus on the following issues:

(1) The future training and education needs of the high-technology sector over that 10-year period, including projected job growth for high-technology issues.

(2) Future training and education needs of United States students to ensure that their skills, at various levels, are matched to the needs of the high technology and information technology sector over that 10-year period.

(3) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer, and engineering since 1998.

(4) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(5) The following additional issues:

(A) The need by the high-technology sector for foreign workers with specific skills.

(B) The potential benefits gained by the universities, employers, and economy of the United States from the entry of skilled professionals in the fields of science and engineering.

(C) The extent to which globalization has increased since 1998.

(D) The needs of the high-technology sector to localize United States products and services for export purposes in light of the increasing globalization of the United States and world economy.

(E) An examination of the amount and trend of high technology work that is outsourced from the United States to foreign countries.

(q) REPORT.—Not later than October 1, 2000, the National Science Foundation shall submit a report containing the results of the study described in subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate.

(r) AVAILABILITY OF FUNDS.—Funds available to the National Science Foundation shall be made available to carry out this section.

(s) SPECIAL RULES.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

"(5) RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

"(A) EMPLOYMENT-BASED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION IF ADDITIONAL VISAS AVAILABLE.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

"(B) LIMITING FALL ACROSS FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).".

(t) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended by striking "paragraphs (3) and (4)" and inserting "paragraphs (3), (4), and (5)".

(2) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is amended by striking "the proportion of the visa numbers" and inserting "except as provided in subsection (a)(5), the proportion of the visa numbers".

(u) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act, any alien who—

(1) as of the date of enactment of this Act is a nonimmigrant described in section 101(a)(15)(H)(i) of that Act;

(2) is the beneficiary of a petition filed under section 204(a) for a preference status under paragraph (1), (2), or (3) of section 203(b); and

(3) would be subject to the per country limitations applicable to immigrants under those paragraphs but for this subsection,

may apply for and the Attorney General may grant an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

(v) Section 212 (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(p) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities, as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or other nonprofit entity and is made for services conducted for the benefit of that institution or entity.".

(w) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.".

(x) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)".

(y) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting ", or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph" after "a material fact in an application"; and

(2) by adding at the end the following new subparagraph:

"(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint

pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

"(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

"(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.".

(z) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(aa) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

(bb) IN GENERAL.—Subject to subsection (dd), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(cc) GRANTS.—Subject to subsection (dd), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(dd) LIMITATION.—The Secretary of Labor shall establish programs under subsection (bb), including awarding grants to carry out such programs under subsection (cc), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

KOHL AMENDMENT NO. 3295

Mr. GREGG (for Mr. KOHL) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

SEC. ___. (a) AUTHORITY TO CONDUCT BACKGROUND CHECKS.—

(1) IN GENERAL.—A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) SUBMISSION OF REQUESTS.—A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) SEARCH AND EXCHANGE OF RECORDS.—Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) USE OF INFORMATION.—Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section to cover the cost of conducting the search and providing the records.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) CRIMINAL PENALTY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) IMMUNITY FROM LIABILITY.—A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.

GORTON (AND OTHERS) AMENDMENT NO. 3296

Mr. GREGG (for Mr. GORTON for himself, Mr. HATCH, Mrs. MURRAY, Mr. SESSIONS, Mr. ABRAHAM, Mr. KYL, and Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with, any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. *Provided, however,* that this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201–6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

LANDRIEU AMENDMENT NO. 3297

Mr. GREGG (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. EXCEPTION TO GROUNDS OF REMOVAL.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 201(b)(2)(A)(i) as an orphan described in section 101(b)(1)(F)," unless that alien has knowingly declined U.S. citizenship.

D'AMATO AMENDMENT NO. 3298

Mr. GREGG (for Mr. D'AMATO) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1__. PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

BINGAMAN AMENDMENT NO. 3299

Mr. GREGG (for Mr. BINGAMAN) proposed an amendment to the bill, S. 2260, supra; as follows:

In the appropriate place, insert the following: "*Provided further*, That the Border Patrol is authorized to continue helicopter procurement while developing a report on the cost and capabilities of a mixed fleet of manned and unmanned aerial vehicles, helicopters, and fixed-winged aircraft."

REED AMENDMENT NO. 3300

Mr. GREGG (for Mr. REED) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALS OF LIBERIA.

(a) CONTINUATION OF STATUS.—Notwithstanding any other provision of law, any alien described in subsection (b) who, as of the date of enactment of this Act, is registered for temporary protected status in the United States under section 244(c)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(1)(A)(iv)), or any predecessor law, order, or regulation, shall be entitled to maintain that status through September 30, 1999.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is a national of Liberia or an alien who has no nationality and who last habitually resided in Liberia.

LEAHY AMENDMENT NO. 3301

Mr. GREGG (for Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.

(a) ADJUSTMENT OF STATUS

(1) EXEMPTION FROM NUMERICAL LIMITATIONS.—The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(2) LIMITATION ON FEES.—

(A) IN GENERAL.—Any alien described in subsection (b) who applies for adjustment of status to that of an alien lawfully admitted for permanent residence under section 209(b) of that Act shall not be required to pay any fee for employment authorization or for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or adjustment of status.

(B) EFFECTIVE DATE.—This paragraph shall apply to applications for employment authorization or adjustment of status filed before, on, or after the date of enactment of this Act.

(b) COVERED ALIENS.—An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

HATCH AMENDMENT NO. 3302

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 9, beginning on line 15, strike "Attorneys." and insert the following: "Attorneys: *Provided further*, That of the total amount appropriated, not to exceed $3,000,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area of the United States) which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended."

KERREY AMENDMENT NO. 3303

Mr. GREGG (for Mr. KERREY for himself, Mr. DORGAN, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. SNOWE, Mr. WELLSTONE, and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under "DEPARTMENT OF COMMERCE" is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under "DEPARTMENT OF COMMERCE" except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION" and under the heading "INFORMATION INFRASTRUCTURE GRANTS".

(B) Amounts appropriated under any heading under "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY".

(C) Amounts appropriated under any heading under "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION". ,

(c)(1) Notwithstanding any other provision of this Act, the second proviso under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

MOSELEY-BRAUN AMENDMENT NO. 3304

Mr. GREGG (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. AGRICULTURAL EXPORT CONTROLS.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) is amended—

(1) by redesignating section 208 as section 209; and

(2) by inserting after section 207 the following new section:

"SEC. 208. AGRICULTURAL CONTROLS.

"(a) IN GENERAL.—

"(1) REPORT TO CONGRESS.—If the President imposes export controls on any agricultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(2) APPLICATION OF PARAGRAPH (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

"(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

"(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(b) JOINT RESOLUTION.—

"(1) IN GENERAL.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted to Congress on _____.', with the blank space being filled with the appropriate date.

"(2) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on International Relations, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) REFERRAL.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

"(4) DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) CONSIDERATION IN SENATE AND HOUSE OF REPRESENTATIVES.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) PASSAGE BY 1 HOUSE.—In the case of a joint resolution described in paragraph (1), if, before the passage by 1 House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(c) COMPUTATION OF TIME.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".

HUTCHISON AMENDMENT NO. 3305

Mr. GREGG (for Mrs. HUTCHISON) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 101, line 17, insert after the period "*Provided*, That of this amount, $1,400,000 shall be available for Student Incentive Payments."

DORGAN (AND CONRAD) AMENDMENT NO. 3306

Mr. GREGG (for Mr. DORGAN for himself and Mr. CONRAD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. ___. INVESTIGATION OF PRACTICES OF CANADIAN WHEAT BOARD.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 of the new employees authorized in fiscal years 1998 and 1999 for the Office of the United States Trade Representative shall work on investigating pricing practices of the Canadian Wheat Board and determining whether the United States spring wheat, barley, or durum wheat industries have suffered injury as a result of those practices.

(b) SCOPE OF INVESTIGATION.—The purpose of the investigation described in subsection (a) shall be to determine whether the practices of the Canadian Wheat Board constitute violations of the antidumping or countervailing duty provisions of title VII of the Tariff Act of 1930 or the provisions of title II or III of the Trade Act of 1974. The investigation shall include—

(1) a determination as to whether the United States durum wheat industry, spring wheat industry, or barley industry is being materially injured or is threatened with material injury as a result of the practices of the Canadian Wheat Board;

(2) a determination as to whether the acts, policies, or practices of the Canadian Wheat Board—

(A) violate, or are inconsistent with, the provisions of, or otherwise deny benefits to the United States under, any trade agreement, or

(B) are unjustifiable or burden or restrict United States commerce;

(3) a review of home market price and cost of acquisition of Canadian grain;

(4) a determination as to whether Canadian grain is being imported into the United States in sufficient quantities to be a substantial cause of serious injury or threat of serious injury to the United States spring wheat, barley, or durum wheat industries; and

(5) a determination as to whether there is harmonization in the requirements for cross-border transportation of grain between Canada and the United States.

(c) ACTION BASED ON RESULTS OF THE INVESTIGATION.—

(1) IN GENERAL.—If, based on the investigation conducted pursuant to this section, there is an affirmative determination under subsection (b) with respect to any act, policy, or practice of the Canadian Wheat Board, appropriate action shall be initiated under title VII of the Tariff Act of 1930, or title II or III of the Trade Act of 1974.

(2) CORRECTION OF HARMONIZATION PROBLEMS.—If, based on the investigation conducted pursuant to this section, there is a determination that there is no harmonization for cross-border grain transportation between Canada and the United States, the United States Trade Representative shall report to Congress regarding what action should be taken in order to harmonize cross-border transportation requirements.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the terms "Canadian grain" and "grain" include spring wheat, durum wheat, and barley.

TORRICELLI AMENDMENT NO. 3307

Mr. GREGG (for Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) IN GENERAL.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

"(c) FM TRANSLATOR STATIONS.—(1) It may be the policy of the Commission, in any case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a community in such county) that has a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

"(A) authority for the origination of unlimited local programming through the station on a primary basis but only if the licensee abides in such programming by all rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations; and

"(B) authority to operate the station (either omindirectionally or directionally, with facilities equivalent to those of a station operating with maximum effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if—

"(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

"(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference as required by rules and regulations of the Commission applicable to full service FM stations; and

"(iii) the station complies with any other rules, regulations, and policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

"(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)—

"(A) may accept or receive any amount of theoretical interference from any full service FM station;

"(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

"(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

"(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

"(E) may utilize a directional antennae in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

"(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

"(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

"(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under clause (i).".

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows:

"SEC. 331. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.".

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) or (B) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision not to renew the license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license not to be renewed.

ABRAHAM (AND LEVIN) AMENDMENT NO. 3308

Mr. GREGG (for Mr. ABRAHAM for himself and Mr. LEVIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2 . SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

BROWNBACK (AND INHOFE) AMENDMENT NO. 3309

Mr. GREGG (for Mr. BROWNBACK for himself and Mr. INHOFE) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 62, lines 3 through 16, strike "That if the standard build-out" and all that follows through "covered by those costs." and insert the following: "That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving, furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.".

HATCH AMENDMENT NO. 3310

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, line 9, add a new section 121: SEC. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns mattes within the jurisdiction of the Committee on the Judiciary of the Senate of of the House of Representatives, a copy of such report shall be submitted to the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently as the report is submitted to the Committee on Appropriations of the Senate or of the House of Representatives."

BIDEN (AND OTHERS) AMENDMENT NO. 3311

Mr. GREGG (for Mr. BIDEN for himself, Mr. ABRAHAM, Mr. KENNEDY, Mr. WELLSTONE, and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

At the end of the bill, add the following:

TITLE —VAWA RESTORATION ACT

SEC. 01. SHORT TITLE.

This title may be cited as the "VAWA Restoration Act".

SEC. 02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by inserting "of an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after "The status";

(2) in subsection (a), by adding at the end the following: "An alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) who files for adjustment of status under this subsection shall pay a $1,000 fee, subject to the provisions of section 245(k).";

(3) in subsection (c)(2), by striking "201(b) or a special" and inserting "201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special";

(4) in subsection (c)(4), by striking "201(b))" and inserting "201(b) or an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))";

(5) in subsection (c)(5), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1))" after "an alien"; and

(6) in subsection (c)(8), by inserting "(other than an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)" after "any alien".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for adjustment of status pending on or after the date of the enactment of this title.

SEC. 03. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—

(1) SPECIAL RULE FOR CALCULATING CONTINUOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—Paragraph (1) of section 240A(d) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended to read as follows:

"(1) TERMINATION OF CONTINUOUS PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(B) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall not be deemed to end any period of continuous physical presence in the United States.".

(2) EXEMPTION FROM ANNUAL LIMITATION ON CANCELLATION OF REMOVAL FOR BATTERED SPOUSE OR CHILD.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following:

"(C) Aliens whose removal is canceled under subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 587).

(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—

(1) IN GENERAL.—Subparagraph (C) of section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(A) by amending the subparagraph heading to read as follows:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.—"; and

(B) in clause (i)—

(i) by striking "or" at the end of subclause (IV);

(ii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. ___04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

"(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587).

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) does not apply, if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as so in effect) and if the motion to reopen is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act, clause (ii) or (iii) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.); or

(ii) section ___03 of this title.

DURBIN (AND OTHERS) AMENDMENT NO. 3312

Mr. GREGG (for Mr. DURBIN for himself, Ms. COLLINS, Mr. REID, Mr. KOHL, Mr. HARKIN, Mr. CLELAND, Ms. MIKULSKI, and Mr. JEFFORDS) proposed an amendment to the bill, S. 2260, supra; as follows:

On page ___, after line ___, insert the following:

SEC. ___. (a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting ", including older women" after "combat violent crimes against women"; and

(ii) by inserting ", including older women" before the period; and

(B) in subsection (b)—

(i) in the matter before subparagraph (A), by inserting ", including older women" after "against women";

(ii) in paragraph (6), by striking "and' after the semicolon;

(iii) in paragraph (7), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(8) developing, through the oversight of the State administrator, a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.";

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1), by inserting "and elder domestic abuse experts" after "victim services programs"; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—

(A) in paragraph (7), by striking "and' after the semicolon;

(B) in paragraph (8), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) the term 'elder' has the same meaning as the term 'older individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

"(10) the term 'domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

"(A) a current or former spouse of the victim;

"(B) a person related by blood or marriage to the victim;

"(C) a person who is cohabitating with or has cohabitated with the victim;

"(D) a person with whom the victim shares a child in common;

"(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

"(F) a person similarly situated to a spouse of the victim, or by any other person;

if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

BROWNBACK AMENDMENT NO. 3313

Mr. GREGG (for Mr. BROWNBACK) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) MEMBERSHIP OF JOINT BOARD.—

"(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

"(i) 3 shall be members of the Federal Communications Commission;

"(ii) 1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

"(iii) 5 shall be State utility commissioners nominated by the national organization of State utility commissions, with at least 2 such commissioners being commissioners of commissions of rural States.

"(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the 5 members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

"(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.".

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

(c) RECONSTITUTED JOINT BOARD TO CONSIDER UNIVERSAL SERVICE.—The Federal-State Joint Board established under section 254(a)(1) of the Communications Act of 1934 (47 U.S.C. 254(a)(1)) shall not take action on the Commission's Order and Order on Reconsideration adopted July 13, 1998, (CC Docket No. 96-45; FCC 98-160) relating to universal service until—

(1) the Commission has adopted rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)); and

(2) the co-chairman of the Joint Board have been chosen under that section.

TORRICELLI AMENDMENT NO. 3314

Mr. GREGG (for Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2 . NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 3315

Mr. GREGG (for Mr. LAUTENBERG for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 34, line 20, insert the following: strike "65,960,000" and insert "66,960,000".

On page 34, line 19, insert the following: strike "$119,960,000" and insert "$120,960,000".

FEINGOLD AMENDMENT NO. 3316

Mr. GREGG (for Mr. FEINGOLD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and

familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

STEVENS AMENDMENT NO. 3317

Mr. GREGG (for Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 128, line 9, strike "(1)";

On page 129, line 3, strike "(2)" and insert in lieu therof "(b)"; on line 6, strike "paragraph (1)" and insert in lieu thereof "subsection (a)"; on line 14, strike "(3)" and insert in lieu therof "(c)"; strike "subsection" and insert in lieu thereof "section".

On page 129, strike all of the subsection "(b)" beginning on line 18 to the end of the subsection on page 130.

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 3318

Mr. GREGG (for Mr. LAUTENBERG for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 9, line 15, strike the period and insert the following: ": *Provided further*, That $2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which $1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania and $800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.".

GRAMS (AND HELMS) AMENDMENTS NOS. 3319–3321

Mr. GREGG (for Mr. GRAMS for himself and Mr. HELMS) proposed three amendments to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3319

On page 100, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (as contained in Public Law 105–119)—

(1) the Secretary of State shall, in lieu of the certification required under such sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the reform budget of $2,533,000,000 for the biennium 1998–1999; and

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.

AMENDMENT NO. 3320

At the appropriate place in Title IV, insert the following new sections:

SEC. . BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term "International Criminal Court" means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998, or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization that is used to provide support to the International Criminal Court described in paragraph (1),

unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

DURBIN AMENDMENT NO. 3322

Mr. GREGG (for Mr. DURBIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the end of the bill, add the following:

TITLE ___—NURSING RELIEF FOR DISADVANTAGED AREAS

SEC. ___1. SHORT TITLE.

This title may be cited as the "Nursing Relief for Disadvantaged Areas Act of 1998".

SEC. ___2. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS DURING 4-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "; or" at the end and inserting the following: ", or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or".

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

"(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to alien who is coming to the United States to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

"(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

"(i) The facility meets all the requirements of paragraph (6).

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

"(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

"(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

"(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

"(vii) The facility will not, at any time, employ a number of aliens issued visas or

otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

"(viii) The facility will not, with respect to any alien issued a visa or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(c)—

"(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

"(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Health Professional Shortage Area Nursing Relief Act of 1998. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of the filing.

"(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

"(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

"(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

"(iv) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Subparagraph (A)(iv)'s requirement shall be satisfied by a facility taking any of the steps listed in this subparagraph.

"(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

"(i) shall expire on the date that is the later of—

"(I) the end of the one-year period beginning of the date of its filing with the Secretary of Labor; or

"(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

"(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

"(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

"(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

"(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

"(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such an administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

"(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

"(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

"(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

"(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

"(A) For States with populations of less than 9,000,000 based upon the 1990 decennial census of population, 25 petitions.

"(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

"(C) If the total number of visas available under this paragraph for a calendar quarter exceeds the number of qualified nonimmigrants who may be issued such visas, the visas made available under this paragraph shall be issued without regard to the numerical limitations under subparagraphs (A) and (B) of this paragraph during the remainder of the calendar quarter.

"(5) A facility that has filed a petition under section 101(a)(15)(H)(I)(c) to employ a nonimmigrant to perform nursing services for the facility—

"(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

"(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

"(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

"(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

"(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

"(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

"(i) the hospital has not less than 190 licensed acute care beds;

"(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

"(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.".

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. __3. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE.

Not later than the last day of the 4-year period described in section __2(e), the Secretary of Health and Human Services and the

Secretary of Labor shall jointly submit to Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section ___2(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section ___2) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).

FRIST AMENDMENT NO. 3323

Mr. GREGG (for Mr. FRIST) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3___. SIGNAGE ON HIGHWAYS WITH RESPECT TO THE NATIONAL CEMETERY SYSTEM.

(a) DEFINITIONS.—In this section:

(1) FEDERAL-AID HIGHWAY.—The term "Federal aid highway" has the meaning given that term in section 101 of title 23, United States Code.

(2) NATIONAL CEMETERY SYSTEM.—The term "National Cemetery System" means the National Cemetery System, which is managed by the Secretary of Veterans Affairs.

(3) STATE.—The term "State" has the meaning given that term in section 101 of title 23, United States Code.

(b) FEDERAL-AID HIGHWAYS.—The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall take such action as may be necessary to ensure that, for each cemetery of the National Cemetery System that is located in the proximity of any Federal-aid highway, there is sufficient and appropriate signage along that highway to direct visitors to that cemetery.

(c) STATE HIGHWAYS.—Nothing in subsection (b) is intended to affect the provision of signage by a State along a State highway to direct visitors to a cemetery of the National Cemetery System.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SHELBY (AND LAUTENBERG) AMENDMENT NO. 3324

Mr. SHELBY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows;

On page 19 of the bill in line 2, strike ": *Provided*, That $3,000,000 shall be transferred to the Appalachian Regional Commission".

On page 26 of the bill, line 15, insert the following before the period: "*Provided further*, That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49 United States Code section 22301".

On page 20 of the bill, in line 17, after the colon, insert: "*Provided further*, That within the $20,000,000 made available for refuge roads in fiscal year 1999 by section 204 of title 23, United States Code, as amended, $700,000 shall be made available to the U.S. Army Corps of Engineers to determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska and $1,500,000 shall be made available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana:".

On page 28 of the bill, amend the figure in line 5 to read "7,500,000".

On page 44 of the bill, insert at the beginning of line 1 the following: "New York City NY Midtown west ferry terminal".

On page 51 of the bill, insert after line 19 the following: "Whittier, AK intermodal facility and pedestrian overpass".

On pages 86 and 87 of the bill, strike all of section 336 (lines 16–24 and lines 1–10).

On page 88 of the bill, in line 18, after the semicolon insert the following:

(3) in subsection (d), by inserting "(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))" after "subsection (b)(3)(B)(i) of this section"; and.

And on page 88 of the bill, in line 19, amend the "(3)" subsection number to read "(4)".

On page 90 of the bill, in line 1, after the semicolon insert the following: "$3,500,000 is provided for the Providence-Boston commuter rail project;".

On page 92 of the bill, after line 25, insert the following:

SEC. 351. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking "Pirate Cove" and inserting "Pirates' Cove and 4-lane connector to Mississippi Highway 468".

On page 78 of the bill, strike lines 8–15, and insert the following:

SEC. 322. None of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or recipients of financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

INTERNATIONAL MONETARY FUND APPROPRIATIONS ACT OF 1998

MURKOWSKI AMENDMENT NO. 3325

Mr. MURKOWSKI proposed an amendment to the bill (S. 2334) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; as follows:

SECTION 1. ENVIRONMENTAL POLICY AND PROCEDURES.

(a) IN GENERAL.—Section 11(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–5(a)) is amended—

(1) in paragraph (2), by striking the period and inserting the following: ", except that the Board of Directors may not withhold financing from a project under this subsection if the government of any other G–7 country is providing (or has indicated approval to provide) financing of the project."; and

(2) by adding at the end the following new paragraph:

"(3) G–7.—For purposes of this subsection, the term 'G–7' means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, and Italy, established in September, 1985, to facilitate economic cooperation among the seven major non-Communist economic powers.".

(b) DEVELOPMENT OF CONSISTENT ENVIRONMENTAL POLICY.—

(1) IN GENERAL.—It is the sense of Congress that—

(A) consistent with the objectives of section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)), the Export-Import Bank should seek to reach an international agreement with the export financing agencies of other G–7 countries regarding environmental policies and procedures for the financing of projects; and

(B) such agreement should be subject to Congressional approval.

(2) G–7.—For purposes of this subsection, the term "G–7" means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, and Italy, established in September, 1985, to facilitate economic cooperation among the seven major non-Communist economic powers.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

MCCONNELL AMENDMENT NO. 3326

Mr. MCCONNELL proposed an amendment to the bill, S. 2307, supra; as follows:

On page 92, after line 25, add the following:

SEC. 3___. JUDICIAL REVIEW OF CONSTITUTIONAL CLAIMS.

(a) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) APPEAL TO SUPREME COURT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

(2) DEADLINES FOR APPEAL.—

(A) NOTICE OF APPEAL.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) JURISDICTIONAL STATEMENT.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(3) STAYS.—No stay of an order described in paragraph (1) shall be issued by a single Justice of the Supreme Court.

(c) APPLICABILITY.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1998, but before June 10, 1999.

DEWINE (AND OTHERS) AMENDMENT NO. 3327

Mr. DEWINE (for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. BOND, Mr. GRASSLEY, and Mr. FAIRCLOTH) proposed an amendment to the bill, S. 2307, supra; as follows:

Beginning on page 8 of the bill, in line 17 after the colon insert: *Provided further*, That not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike "$165,215,000" and insert "$158,468,000".

On page 9 of the bill, in line 2, strike "$388,693,000" and insert "$426,173,000".

On page 9 of the bill, in line 4, strike "$215,473,000" and insert "$234,553,000".

On page 9 of the bill, in line 7, strike "$46,131,000" and insert "$55,131,000".

On page 9 of the bill, in line 9, strike "$35,389,000" and insert "$44,789,000".

On page 77 of the bill, in line 15, strike "$10,500,000" and insert "$17,247,000".

McCAIN AMENDMENT NO. 3328

Mr. SHELBY (for Mr. McCAIN) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert:

SEC. . The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to P.L. 105–134. No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997; *Provided further*, That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles; *Provided further*, That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the Amtrak Reform Council and the Senate Committee on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

SPECTER (AND SANTORUM) AMENDMENT NO. 3329

Mr. SHELBY (for Mr. SPECTER for himself and Mr. SANTORUM) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the Act of July 17, 1952 (66 State. 571, chapter 922), are each amended in the proviso—

(1) by striking "That" and all that follows through "the collection of" and inserting "That the commission may collect"; and

(2) by striking ", shall cease" and all that follows through the period at the end and inserting a period.

On page 22 of the bill, in line 1, strike "State of Michigan," and insert: "Oakland County, MI,".

On page 89 of the bill, in line 24, before the figure "2,700,000" insert the following "$200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;".

On page 92 of the bill, after line 25, insert the following:

SEC. . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading by inserting ", Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

In amendment No. 3324, in line 10, strike "determine the feasibility or providing reliable access connecting King Cove and Cold Bay, Alaska" and insert the following: "study rural access issues in Alaska".

SHELBY (AND LAUTENBERG) AMENDMENT NO. 3330

Mr. SHELBY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 22 of the bill, in line 1, strike "State of Michigan", and insert: "Oakland County, MI,".

On page 89 of the bill, in line 24, before the figure "2,700,000" insert the following: "$200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;".

On page 92 of the bill, after line 25, insert the following:

SEC. . Section 1212(m) of Public Law 105–178 is amended (1) in the subsection heading, by inserting ", Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

In amendment No. 3324, in line 10, strike "determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska" and insert the following: "study rural access issues in Alaska".

JOHNSON (AND OTHERS) AMENDMENT NO. 3331

Mr. SHELBY (for Mr. JOHNSON, for himself, Mr. KOHL, and Mr. BOND) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 30, after line 11, before the period insert the following: *Provided further*, That, of the funds made available under Sec. 5308, up to $10 million may be used for the projects that include payments for the incremental costs of biodiesel fuels: *Provided further*, That incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternatives".

DURBIN (AND LAUTENBERG) AMENDMENT NO. 3332

Mr. SHELBY (for Mr. DURBIN for himself and Mr. LAUTENBERG) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 of title 49, United States Code, is amended to read as follows:

"§ 41706. Prohibitions against smoking on scheduled flights

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary of Transportation shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated by the Secretary and the objecting foreign government through a bilateral negotiation process.

"(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

BURNS AMENDMENT NO. 3333

Mr. SHELBY (for Mr. BURNS) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert the following:

SEC. . HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

LAUTENBERG (AND KERRY) AMENDMENT NO. 3334

Mr. SHELBY (for Mr. LAUTENBERG, for himself and Mr. KERRY) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 79 of the bill, in line 21 before the period, insert: "*Provided further*, That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration; Provided further that the Secretary of Transportation, acting through the administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, U.S.C.) that

states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance".

D'AMATO AMENDMENT NO. 3335

Mr. SHELBY (for Mr. D'AMATO) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3 . REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, July 29, 1998, at 9:30 a.m. to conduct a Business Meeting to consider the following pending business of the Committee: S. 1905, A Bill to Compensate the Cheyenne River Sioux Tribe, and for Other Purposes; S. 391, To Provide for the Distribution of Certain Judgment Funds to the Mississippi Sioux Tribe of Indians, and for Other Purposes; and S. 1770, To Elevate the Position of the Director of the Indian Health Service to Assistant Secretary for Health and Human Services. The Business Meeting will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 202/224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 23, 1998, at 3:00 p.m. in open session, to consider the nominations of Patrick T. Henry, to be Assistant Secretary of the Army for Manpower, Reserve Affairs; Carolyn H. Becraft, to be Assistant Secretary of the Navy for Manpower & Reserve Affairs; and Ruby Butler Demesme to be Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations & Environment.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 23, 1998, at 9:30 am on S. 2238—Mohammad Ali Boxing Reform Act.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 23, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 2109, a bill to provide for an exchange of lands located near Gustavas, Alaska, and for other purposes; S. 2257, a bill to reauthorize the National Historic Preservation Act; S. 2276, a bill to amend the National Trails Systems Act to designate El Camino Real de los Tejas as a National Historic Trail; S. 2273, a bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; S. 2284, a bill to establish the Minutemen Missile National Historic Site in the State of South Dakota, and for other purposes; and H.R. 1522, a bill to extend the authorization for the National Historic Preservation Fund, and for other purposes.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to continue markup of S. 2131, the Water Resources Development Act, Thursday, July 23, 10:45 a.m., Hearing Room (SD-406).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 2:30 pm to hold a business meeting.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 4:00 p.m. to hold a hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 9:30 a.m. in room 216 of the Senate Hart Office Building to hold a hearing on: "Competition and Innovation in the Digital Age; Beyond the Browser Wars."

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing of Presidential Nominees Ida Castro and Paul Igasaki to be Members of the Equal Employment Opportunity Commission during the session of the Senate on Thursday, July 23, 1998, at 10:00 a.m.

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

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. GREGG. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on July 23, 1998 at 9:30 a.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. GREGG. 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 on FEMA reform Thursday, July 23 at 9:00 a.m., Hearing Room (SD-406).

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

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 10:00 am to hold a hearing.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee to meet on Thursday, July 23, 1998, at 9:30 a.m. for a hearing entitled "Cramming: An Emerging Telephone Billing Fraud."

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESENTATION AND RECREATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 23, for purposes of conducting a subcommittee hearing which

is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 2109, a bill to provide for an exchange of lands located near Gustavas, Alaska, and for other purposes; S. 2257, a bill to reauthorize the National Historic Preservation Act; S. 2276, a bill to amend the National Trails Systems Act to designate El Camino Real de los Tejas as a National Historic Trail; S. 2272, a bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; S. 2284, a bill to establish the Minutemen Missile National Historic Site in the State of South Dakota, and for other purposes; and, H.R. 1522, a bill to extend the authorization for the National Historic Preservation Fund, and for other purposes.

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

ADDITIONAL STATEMENTS

SENATE CONCURRENT RESOLUTION 105

• Mr. ABRAHAM. Mr. President, I rise to co-sponsor S. Con. Res. 105, a resolution which I hope will bring justice to the many suffering people of the former Yugoslavia. For over a decade now Serbian leader Slobodan Milosevic has executed his policies of hatred, policies which have led to oppression and murder. And I am sorry to say that Milosevic's brutal assaults against the people of Bosnia and Croatia have gone unpunished.

Milosevic now seeks to extend his reign of terror over greater Serbia. His efforts already have destroyed the peace, security, and very lives of the people of Kosovo. He has turned Kosovo, once an independent state within Yugoslavia, into a virtual prison for non-Serbs. He has driven Kosovo's native Albanians, who have lived in the Balkans longer than any other ethnic group and who comprise 90 percent of the region's population, to flee the area out of fear for their lives and the lives of their families.

Mr. President, I believe it is important for us to keep in mind that, while the United States continues to offer peaceful and diplomatic support to the victims of Milosevic's campaign of terror, Serbian leaders continue their heinous policies. I am convinced that we must send a strong signal to Milosevic and his cronies in order to stop the violence and oppression they are inflicting on the people of Kosovo.

Mr. President, I believe that we in the United States, the birthplace and homeland of freedom, have a responsibility to bring Milosevic and his fellow perpetrators to the Hague and make them answer for their crimes. It grieves me that so many people in the Balkans have suffered from Milosevic's policies of racial cleansing. I hope that a trial will end the suffering of countless civilians in Kosovo. I also hope that Milosevic's trial will send a message to other dictators that crimes against humanity will not be tolerated by the world community.

I urge my colleagues to support this important legislation.•

CONTEMPORARY AMERICAN THEATER FESTIVAL AND THE TOWN HALL MEETING ON THE PERFORMING ARTS AND RACE

• Mr. ROCKEFELLER. Mr. President, in June 1997, President Clinton announced his Initiative on Race, One America in the 21st Century. His Initiative was created to encourage all Americans to work together in understanding and dealing with our racial differences. In the course of the past year, President Clinton has traveled around the country hosting several events to pursue these goals and foster a national dialogue on the subject. I am proud to tell you that West Virginia not only listened to President Clinton's announcement but answered his call to join him in taking action on this important effort.

The Contemporary American Theater Festival (CATF), located in Shepherdstown, West Virginia, commissioned a play on Asian racism entitled Carry the Tiger to the Mountain, and Governor Cecil Underwood formed his own Initiative on Race, One West Virginia. Together, they planned a Town Hall Meeting on the Performing Arts and Race which was held this past weekend in Shepherdstown and will be broadcast by West Virginia Public Television this coming Thursday and Sunday.

Over 300 people attended the afternoon performance of Tiger and the Town Hall Meeting which followed and was narrated by Kwame Holman, of The Newshour with Jim Lehrer. The panelists for the event included choreographer Garth Fagan, who recently won a Tony Award for The Lion King; Angelo Oh, a member of the President's Advisory Board on Race; Molly Smith, the Artistic Director of Arena Stage; George Takei, a theater and television actor from Star Trek; Helen Zia, contributing editor to Ms. Magazine; Christian McBride, a jazz artist and composer; Abel Lopez, president of Non-Traditional Casting Project; Dr. Simon Perry, a faculty member from Marshall University; and Liz Lerman, artistic director of Dance Exchange. The audience included local community members of various backgrounds, West Virginia NAACP activists, and over 100 members of the Organization of Chinese Americans. This impressive list of panelists and audience gathered in this small town and produced a level of dialogue on the arts and race to further enhance President Clinton's vision for One America.

The afternoon discussion brought forth many ideas and questions in regard to the arts and race. The panelists discussed the role of the performing arts in society, how the depiction of minorities as stereotypes can further intensify racial misunderstandings, and how if we as a society would think of culture more than race, then perhaps we could succeed more. As George Takei mentioned, the performing arts are "a forum for understanding and communication." Yet so much depends on who does the articulating and who has access to the art being presented. In its most truthful essence, the arts can allow "cultures to touch each other," as Molly Smith of Arena Stage pointed out. And if we can "touch each other" or understand each other, then we can begin easing the tensions that separate us.

These are but a few of the ideas discussed in Shepherdstown at the Town Hall Meeting, but you can see the wealth of communication that transpired on the subject in just a few short hours. Imagine if a community in every state hosted a similar event to foster and promote honesty and understanding of our racial differences.

I am very proud of my fellow West Virginians' efforts and success in answering President Clinton's challenge to work towards living as One America in the 21st Century. And I congratulate Ed Herendeen, the producing director of CATF, and Cherylene Lee, the playwright of this commissioned work, for bringing Carry the Tiger to the Mountain to West Virginia for its world premier season. CATF is dedicated to promoting live, provocative theater that challenges us to think about issues in our society, and once again it has achieved that goal.•

TRIBUTE TO ALAN SHEPARD: NEW HAMPSHIRE NATIVE AND FIRST AMERICAN TO FLY IN SPACE

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Alan Shepard, the first American to fly in space, and a native of Derry, New Hampshire. On Tuesday, this American hero fell victim to leukemia at the age of 74, and leaves behind his widow, Louise, two daughters and six grandchildren.

As the first American to fly in space, Alan Shepard was a pioneer for manned space exploration as we know it. On May 5, 1961, at a time when the American space program was marked by many failures and setbacks, Shepard courageously made a 15-minute suborbital flight, spending five of those minutes in space, and forever distinguishing himself as an American hero. Shepard was also one of the seven original Mercury astronauts, NASA's first space pioneers.

On January 31, 1971, Shepard returned to space for his second and last

flight as the commander of Apollo 14. This trip allowed Shepard to become the fifth of only twelve Americans ever to walk on the moon, and the only man to hit golf balls playfully on the lunar surface.

In addition to his space endeavors, Shepard headed NASA's astronaut office in the years between his two flights, and he began investing in banks, oil wells, quarter horses and real estate. Shepard was also a Navy test pilot, sacrificing a great deal for the future of his country. He retired from the space agency and from the Navy as a rear admiral in 1974, in pursuit of many and varied interests.

Alan Shepard was known for his determination and ready wit. He never backed down from a challenge, and was characterized as the most eager to be picked from among three astronauts who were finalists for the historic first flight. These traits are exactly what make Alan Shepard nothing short of a hero in American history. Without his willingness to make sacrifices for the good of his country, the United States of America never could have achieved such glorious accomplishments in its space programs. He was a modest explorer, a man of integrity, a modern role model and one for ages to come. The bravery of this man gave Americans the confidence to continue pursuing the space program, in spite of the enormous challenges that were in sight.

Alan Shepard will be missed dearly across the nation, and especially in Derry, New Hampshire, the town of his birth. His motivation and dedication to the American space program and the American people serve to encourage all to welcome challenges and follow dreams to whatever heights they may soar. Let us mark the passing of this great leader not with sadness, but with gratitude and deep appreciation for being such a valiant American.•

TRIBUTE TO CHARLES L. FOX, BUSINESS & MILITARY LEADER, PATRIOT AND SERVANT OF THE UNITED STATES OF AMERICA

• Mr. SMITH of New Hampshire. Mr. President, it is with a great deal of personal pleasure that I recognize the major accomplishments of an individual who dedicated his career to serving the interests of our country by strengthening our national security for more than 30 years.

On August 31, 1998, Mr. Charles L. Fox will retire as Senior Vice President, Congressional Relations for the Raytheon Company. Under Chuck's leadership and dedication, Raytheon has contributed tremendously to the effectiveness of our national security.

Mr. Fox has headed Raytheon's Congressional Relations Office since May 1995. In this capacity he was responsible for ensuring that issues and programs of interest to Raytheon in supporting national security requirements were communicated to members and staff of Congress in an effective manner. Mr. President, I can tell you, I know of no one more professional than Mr. Fox. In all his dealings with the Congress, he was a true professional, dedicated to ensuring national security interests, and the security of our country were always well served.

Prior to joining Raytheon, Chuck served a distinguished career of more than twenty seven years in the United States Air Force, retiring as a Colonel. He served in a variety of staff, operations and command positions around the world. He served as both a base and wing commander, as well as the Chief of Staff of the Pacific Air Forces. In the two years prior to his retirement from the Air Force, Mr. Fox was the Deputy Director of Legislative Liaison for the Secretary of the Air Force in the Pentagon. He was responsible for managing all Congressional actions for the Secretary of the Air Force and the Air Force Chief of Staff, and supervised a staff of 90 personnel.

Mr. Fox holds a Bachelor of Arts degree from Seattle University with a major in Political Science. He received a Master of Arts degree in International Relations from the University of Washington.

Chuck and his wife Marilyn will reside in Charleston, South Carolina. Mr. Fox has two married daughters, Rachel and Sarah.

Mr. President, fellow colleagues, please join me in paying tribute to the exemplary accomplishments of Mr. Charles L. Fox, for a lifetime of achievements as a business and military leader, patriot and servant of the United States of America.•

RETIREMENT OF MR. CLARK BURRUS

• Ms. MOSELEY-BRAUN. Mr. President, I would like to take a few moments to honor Mr. Clark Burrus, a distinguished professional and a citizen par excellence. Mr. Burrus has recently announced his retirement from First Chicago Capital Markets, Inc. Although it was with great sadness that I heard of Mr. Burrus' retirement, this milestone provides an opportune moment to praise him for his long record of achievements. He has served Chicago and our nation in so many different ways that it is almost impossible to enumerate them all.

Mr. Burrus was born in Chicago and attended Englewood High School on the city's South side. Following high school, Mr. Burrus matriculated at Texas State University where he excelled in both academics and athletics. After his studies at Texas State University, Mr. Burrus returned to his hometown and continued his education at Roosevelt University, where he received both a Masters Degree in Public Administration and a Bachelor of Science Degree in Accounting.

Clark Burrus began his five decades of service to the City of Chicago during the administration of Mayor Martin Kenelley, and continued to serve under Mayors Richard J. Daley, Michael Bilandic and Jane Byrne. The hard work and dedication of Mr. Burrus were recognized when the late Mayor Richard J. Daley named him City Comptroller in 1973. As City Comptroller, Mr. Burrus was the Chief Fiscal Officer of the city and supervised the Department of Finance. Under his able guidance, the status of city-issued bonds climbed to its first Double-A rating. Mr. Burrus is also credited with engineering the low-interest rate mortgage revenue bond program of Chicago, the first such program in the United States.

In 1979, Mr. Burrus left public life and joined the First Bank of Chicago as a Senior Vice President in the Asset and Liability Management Department. Almost twenty years later, Mr. Burrus has risen to the position of Vice Chairman of First Chicago Capital Markets, Inc., a subsidiary of First Chicago NBD Corporation. Mr. Burrus also serves as the head of the Public Banking Department. The departments under the supervision of Mr. Burrus provide critical commercial banking services to a wide array of fields, including health care, higher education, governmental and cultural institutional markets.

Although he left public life in 1979, Mr. Burrus's commitment to the welfare of his hometown and fellow citizens did not end. Mr. Burrus has since served as Chairman of the Board of the Chicago Transit Authority and of its Deferred Compensation Committee. Additionally, Mr. Burrus was a board member of the Regional Transportation Authority, a member of its Strategic Planning Committee, and a member of the Chairman's Coordinating Committee. Recently, Mr. Burrus was appointed to the Cook County Deferred Compensation Committee. He is also a current member and past chairman of the Chicago Transit Authority's Pension Board of Trustees, and has served as a trustee of five other public pension funds. In addition, Mr. Burrus presently serves on a remarkable twenty eight boards and commissions. I never cease to be amazed at how well Clark Burrus is able to perform so many professional and civic duties simultaneously.

Mr. President, the civic service and public achievements of Mr. Clark Burrus are of breathtaking dimensions. Indeed, they serve as an enduring testament of his passionate commitment to the betterment of his community. As Mr. Burrus retires to private life, he leaves behind a record of excellence that will long be appreciated, and is model of service for all Americans to

follow. I wish him Godspeed and hope that his years of retirement will be as enriching as his years of public service.•

CONGRATULATING KATRINA RUIZ AND MARCO CAKNESELLA

• Mr. MACK. Mr. President, I rise today to recognize and congratulate Katrina Ruiz and Marco Caknesella of Miami, Florida. Katrina and Marco were selected as national finalists in the 1998 Do the Write Thing Challenge Program sponsored by the National Campaign to Stop Violence. The National Campaign to Stop Violence is a coalition of businesses and nonprofit organizations who have joined together in an effort to work with young people to end youth violence in America.

Katrina, Marco and hundreds of other middle school students in Miami took part in the Do the Write Thing Challenge Program this year. The Do the Write Thing Challenge Program asks middle school students in 12 cities across the United States to provide a written commitment to reducing violence in their lives by submitting a written answer to the question "What can I do about the violence in my life?"

It is always a pleasure to hear about programs, like the Do the Write Thing Challenge Program, which encourage young people to begin to think about the ways that they, as individuals, can have an impact upon the problems which confront their community. I am confident that Katrina, Marco and the thousands of other young people across the nation who participated in the program will set a positive example for their peers as they fulfill their written commitment to reduce violence in their own lives.

I commend Katrina Ruiz and Marco Caknesella for their selection for this high honor and wish them all the best for their continued success.•

IMPORTANCE OF ACCURATE ECONOMIC STATISTICS

• Mr. DOMENICI. Mr. President, I want to discuss a very important issue today that often does not get the attention that it deserves—the need for accurate economic statistics.

Policymakers rely on statistics to guide them in their decision-making process. For instance, the Federal Reserve sets interest rates based on the reported level of economic activity and inflation; Congress and the Administration craft multi-year budget proposals using an economic baseline that is built upon current data; we examine the effectiveness of different tax and fiscal reforms by their effect on measured savings rates.

In all cases, we take for granted that these building block statistics give us a reliable portrayal of current economic conditions. We seldom consider just how difficult it is to construct them nor realize that it is getting harder to do so as our economy continues to evolve.

We can no longer hope to measure overall economic activity by counting how many widgets roll off an assembly line. We have to put a value on financial and high-tech services. Increasingly, we will also need to be tracking internet commerce. It is imperative that our data collection methods keep pace with our rapidly changing economy. Our statistical agencies employ exceptionally talented people who are working hard to ensure that this happens.

In the last several years, one can point to many notable data enhancements from our statistical agencies. For instance, BLS has worked hard to improve the accuracy of the Consumer Price Index; BEA has implemented "chain-type" measures for GDP which provide a more up to date reading of the economy.

Despite such progress, more needs to be done. Growth is booming in the service sector, where we have the least amount of source data. We need to increase our coverage of this important part of our economy. It is imperative that we do so immediately, because there are already signs that our statistics are lagging behind the economy's advances. There has been a growing discrepancy between economic activity measured on a product basis and an income basis. In recent years, Gross Domestic Product (GDP) has been growing 0.5 percentage points slower than Gross Domestic Income on an annual basis. In theory, these two items should grow at the same rate since they are technically measuring the same thing.

Economists speculate that GDP growth is being understated because much of our recent economic growth has been concentrated in the hard to measure service sector. While a 0.5 percentage point difference in GDP growth might not seem like a lot, it has an enormous effect on our budget projections. Over a five year period, this difference could yield up to a cumulative $140 billion swing in our surplus estimates. Indeed, many believe that an understatement of GDP is a major reason why CBO, OMB and major private economic forecasters have been underestimating revenues as of late.

Thus, if we want to ensure that we have more accurate budget forecasts going forward, we should be directing our energies at improving the accuracy of the data used to build these forecasts. The Bureau of Economic Analysis (BEA) which compiles the GDP series has laid out an ambitious agenda to make just such improvements to its data collection procedures. Amongst other things, they are seeking to step up their coverage of the information sector in order to ensure that comprehensive data is available for the computer industry.

This is just part of their initiative to improve the GDP accounts. In order to do so, they have requested an additional $4.5 million. While this money is hard to come by given our tight budget caps, I think it is fair to say that this investment might have one of the highest rates of return within this bill. Indeed, in recent testimony to the JEC, Federal Reserve Chairman Greenspan said that statistics are "one of the areas where I believe the payoff is of sufficiently large magnitude where very small amounts of money can have very large potential rewards."

I hope that we take heed of Chairman Greenspan's words and that we will be able to find the funds to allow our statistical agencies to improve their data collection processes. I believe that this is the most effective way to improve the accuracy of our budget forecasts and enhance the countless other policy decisions yet to be made.•

TRIBUTE TO THOMAS ESTES

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the life and accomplishments of Thomas Clifford Estes, of New Ipswich, New Hampshire, who recently passed away at the age of 66.

The family of Tom Estes can take comfort and pride in the way that he lived his life. Born on November 28, 1931, to the late Bedford and Emily Estes of New York, Tom graduated from Erasmus Hall High School and later studied at RCA Institute.

Following his father's distinguished example in serving this country in the armed forces. Tom joined the United States Navy in 1951, shortly after the outbreak of the Korean War. For three of his four years of active duty, Tom served on the U.S.S. *Tarawa*, a Navy aircraft carrier that entered the Asian war zone. He earned a number of Navy awards, including the Korean Service Medal, the United Nations Service Medal, the China Service Medal, the National Defense Service Medal, the Good Conduct Medal and the Navy Occupation Service Medal.

Tom's service to the nation was commendable, not just during the Korean War, but throughout his thirty-two years of Federal civil service. He began his career as a quality assurance engineer for the United States military in Florida and later moved to Dallas, Texas, before settling in New Hampshire in 1967. Upon his retirement, Tom was recognized by the Defense Logistics Agency for his contributions.

Tom was admired for his integrity, dedication to his community and positive demeanor. He remained a devoted husband to his wife, Mary, throughout almost thirty-five years of marriage and helped care for his disabled sister for many years. An accomplished chess

player, Tom also enjoyed baseball and studied the law. He and his wife ran a small, twenty-acre farm in New Ipswich for many years. He was a man who cared about the needs of others and his community, whose sense of humor, cheery smile and knack for storytelling will be missed by all who knew him.

Tom will be buried with military honors at Arlington National Cemetery on Monday, August 3, 1998. I extend my deepest sympathies to his wife, Mary, his daughter, Evelyn, his sons Thomas and Peter, and his sister, Nancy. It is my great pleasure to pay tribute to this special American in the official RECORD of the annals of Congress.•

TRIBUTE TO THE BLODGETT OVEN COMPANY IN HONOR OF THEIR ONE HUNDRED AND FIFTIETH ANNIVERSARY

• Mr. JEFFORDS. Mr. President, July 25, 1998, is a great day for Vermont as we celebrate the sesquicentennial anniversary of the Blodgett Oven Company. On behalf of all Vermonters, I want to wish the company a very happy anniversary.

For one hundred and fifty years, the Blodgett Oven Company has been a commercial cooking products manufacturer in Burlington, Vermont. Their products are renowned for their reliability and quality. Throughout the world, Blodgett ovens, broilers, steamers, and fryers are depended upon by the food service industry. Chefs know that they can trust the Blodgett name to deliver efficient, technologically advanced machinery. Within Chittenden County, the Blodgett Oven Company plays an important role, stimulating the local economy by providing hundreds of jobs to area residents.

Mr. President, the Blodgett Oven Company is one of the most successful businesses in the state of Vermont. Their innovative products are well-known and, among their clientele, the company is regarded very highly. This tribute recognizes the achievements of the Blodgett Oven Company and, equally as important, the workers who contribute to the company's success.•

40TH OBSERVANCE OF CAPTIVE NATIONS WEEK

• Mr. DOMENICI. Mr. President, this year's Captive Nations celebration is dedicated to the "Memory of the Over 100 Million Victims of Communism."

Behind the Iron Curtain millions were killed and millions more were victimized by the societal and political structures that coerced conformity and attempted to dictate thought in these authoritarian states.

The term victim in this context conjures up SS troops and gas chambers, the purges under Stalin, Hungary in 1956, and the Prague Spring. Countless tragedies are recounted in the stories of those who fought for freedom and died at the hands of a racist regime bent on genocide or in confrontation with a relentless and overpowering Red Army.

Fascism lasted for 12 years in Germany.

Stalinism lasted twice as long in the Soviet Union.

An estimated 6 million perished in Nazi concentration and work camps during World War II.

Between 30 and 60 million perished through the work of Stalin's secret police from torture and execution.

There were, however, many more who persisted and became victims for their beliefs but remained clear in their conscience. The yoke of oppression could not smote their passion. That is the essence of the "Power of the Powerless," according to Vaclav Havel, dissident, writer, and political prisoner who is now President of the Czech Republic.

The ideas contained in the "Power of the Powerless" is what I would like to convey to you on this occasion, because of its lesson in today's world where Captive Nations are few and the powerless seized the power, because it belonged to them all along.

In 1978, Havel wrote:

> A specter is haunting Eastern Europe: the specter of what in the West is called "dissent." This specter has not appeared out of thin air. It is the natural and inevitable consequence of the present historical phase of the system it is haunting. It was born at a time when the system, for a thousand reasons, can no longer base itself on the unadulterated, brutal, and arbitrary application of power, eliminating all expressions of nonconformity. What is more, the system has become so ossified politically that there is practically no way for such nonconformity to be implemented within its official structures.

The system was exemplified by the greengrocer whose store displays the slogan: "Workers of the world, unite!"

Due to semantics, the greengrocer is indifferent to the slogan.

His obedience is verbalized in a manner that does not degrade his humanity so much as the truth. "I am afraid and therefore unquestioningly obedient."

Ten years later, the system collapsed in the wake of dissent. The Berlin Wall fell in response to the pressure of East Germans voting with their feet, and within a year a microcosm of the former World Order vanished. Glasnost and Perestroika shook the ossified foundation of the Party and its dogma to its core, and the Soviet Union collapsed, allowing for self-determination and the birth of democracy in many formerly Captive Nations.

It was the Power of the Powerless, the greengrocer's humanity, that eventually brought the system to its knees. Any political system is comprised of the individuals within it, and these individuals, victims or conformists, possess the power of conferring legitimacy to the system.

In the former Captive Nations legitimacy waned when the victims refused to perpetuate the lie.

When the gap between ideology and daily reality could no longer be bridged by pat slogans and prescribed ritual, the system's foundation crumbled.

By accepting the rules of the game, individuals became players. But their refusal to abide by the rules frayed the tightly woven fabric of falsity upon which the system was based.

Rejection of the system is encapsulated in the following description:

> One day something in the greengrocer snaps and he stops putting up the slogans merely to ingratiate himself. He stops voting in elections he knows are a farce. He begins to say what he really thinks at political meetings. And he even finds the strength in himself to express solidarity with those whom his conscience commands him to support. In this revolt the greengrocer steps out of living within the lie. He rejects the ritual and breaks the rules of the game. He discovers once more his suppressed identity and dignity. He gives his freedom a concrete significance. His revolt is an attempt to live within the truth.

In his expression of his identity and human dignity, the greengrocer becomes the victim.

He is purged from the system and punished. His actions are a reminder that an alternate truth exists, thus, he is a threat.

He has done more than express his dissent, he has illuminated the lie that comprise his surroundings.

His power is augmented in its juxtaposition to the facade.

It was the many who expressed their identity in those Captive Nations who tarnished the ideological veneer that was to bridge the gap between truth and falsity. They were victimized, often murdered, for their unwillingness or incapacity to abide by the rules and forfeit their dignity.

Legitimacy is the glue that holds the system together. Legitimacy must be conferred by the individuals in the system. Without the power of individuals the system must utilize force, coercion and fear to maintain control. The days of an authoritarian state are always numbered, and democracy is the only legitimate social order. It is for this reason, I believe, that in time the remaining Captive Nations—Cuba, China, North Korea—also will join the community of democratic states. The ideological battle is over, and the system with the only solid basis for its legitimacy—its citizens—won.

In memory of the millions who perished under authoritarian regimes, it is only right for us to recognize their sacrifice. They rejected the facade and refused to perpetuate or propagate the lie. Their sacrifice is also a sobering reminder of our privilege.

It is also appropriate and important to recognize the victims who survived and are witness to the crimes of history. In commemoration of those who

perished, it is all the more potent to recognize those who were victims and survived. Today we can applaud those who would not be victimized, the individuals who refused to be swayed by untruths and promises of power. They are the ones that I would like to remember today. The ones who fought tyranny and prevailed have offered the greatest gift to those who tried and failed. They serve as a reminder to those around them that living a lie is worse than living in fear. And in the Captive Nations they were many in 1989 and thereafter.•

CLIFFORD J. GROH

• Mr. MURKOWSKI. Mr. President, a good friend of the State of Alaska passed away on Sunday evening, Clifford Groh. He was a well-respected member of the Anchorage community and a leader in the Republican Party. He was educated in New York and New Mexico before settling in Alaska. He served his country in the Navy and plied his trade as a lawyer. Cliff served our state as a member of the Alaska Constitutional Research Committee, Chairman of the Anchorage Charter Commission, the Anchorage City Council, the Borough Assembly, and also as a State Senator.. In 1967 he was appointed Honorary Chief by the Alaska Federation of Natives and in 1972, he was voted Outstanding Legislator of the Year by the Eagleton Institute of Politics at Rutgers University. Cliff served as our State Party National Committeeman from 1976–78 and General Counsel from 1978 to 1990. President Bush appointed Cliff to the Arctic Reserach Commission. In 1977, I had the pleasure of presenting him with the Republican Party of Alaska's Life Service Award. He is survived by his wife, Lucy and their three children.

Mr. President, we share the family's grief at their great loss and take solace in the fact that this talented, highly respected man will live on in the memory of all who had the pleasure to know him.•

TRIBUTE TO THE DEVONSHIRE MEMORIAL CHURCH OF HARRISBURG

• Mr. SANTORUM. Mr. President, I rise today to pay tribute to the youth group from Devonshire Memorial Church in Harrisburg, Pennsylvania. On Sunday, July 26 ten students from the church will travel to Manning, South Carolina to assist in the rebuilding of the Macedonian Baptist Church which the Ku Klux Klan destroyed by fire in 1996. The young people will also be working to renovate homes of church members that suffered damage due to the fire.

The teenagers, who raised their own support for the trip through things such as church-wide dinners and fund-raising letters, will join approximately 250 other young people from across the nation to work on painting, hanging drywall, repairing roofs and caulking windows.

Church burnings are a violent act of hatred against the free exercise of religious faith. Arson, which has destroyed many southern African American churches, has also destroyed our dignity and our humanity. By dedicating their time and effort to rebuilding the walls of a church burned by hatred and bigotry, these young men and women are tearing down the walls of violence and racism and restoring faith to the Christian community.

Mr. President, I ask my colleagues to join me in commending the young men and women of Devonshire Memorial Church for their dedication to restoring a church and a community, as well as the ideals of freedom in this country.•

AMENDMENT NO. 3294, AS MODIFIED, TO S. 2260

Mr. SHELBY. Mr. President, on behalf of Senator HOLLINGS, I ask unanimous consent that amendment No. 3294, previously agreed to, be modified with the language now at the desk.

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

The amendment (No. 3294), as modified, is as follows:

On page 96, strike lines 3 through 16.

AFRICAN ELEPHANT CONSERVATION REAUTHORIZATION ACT OF 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 39, Calendar No. 435.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 39) to reauthorize the African Elephant Conservation Act.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering H.R. 39, the African Elephant Conservation Reauthorization Act. The bill was introduced by Congressmen YOUNG on January 7, 1997, favorably reported by the House Resources Committee on April 21, 1997, passed by the House the same day, and referred to the Committee on Environment and Public Works. Senator JEFFORDS introduced a companion bill, S. 627, on April 22, 1997. The Committee held a hearing on both bills on November 4, 1997, and favorably reported them on May 21, 1998. Today we take up the House passed bill to expedite Congressional action on this important legislation.

The bill reauthorizes the African Elephant Conservation Act for four years, through 2002, at the current authorization level of $5 million annually. The current law was enacted in 1989, in response to a sharp decline in many populations of African elephants due primarily to poaching for ivory. Population estimates vary widely across its range, but the total population is estimated to have declined by as much as 50 percent, from 1.3 million elephants in the late 1970's, to less than 700,000 in 1987. The species continues to decline, with a population of about 540,000 elephants in 1996.

The Act established a process for implementing strict ivory import controls, and established a dedicated fund for cooperative conservation projects in African countries. The Act has been tremendously effective in assisting in conservation efforts worldwide. Under the authority of the Act, President Bush established a moratorium on all ivory imports into the United States, which served as the impetus for the worldwide ban on trade in elephant parts and products, approved by the Parties to the Convention on Trade in Endangered Species of Fauna and Flora (CITES) one year later.

Through the Act, the Fish and Wildlife Service has funded 60 projects in 19 countries since 1990. The law has generated approximately $22 million for elephant conservation programs, of which $6.8 million has been provided by the U.S. Government, with $15.8 million from other sources. Indeed, the success of this law has led to similar laws for Asian elephants, rhinos and tigers.

Again, I am pleased that the Senate is considering this legislation, and I hope that the President will sign it into law soon. Thank you, Mr. President. I yield the floor.

Mr. SHELBY. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

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

The bill (H.R. 39) was considered read the third time and passed.

EXPRESSING DEEPEST CONDOLENCES TO THE STATE AND PEOPLE OF FLORIDA FOR LOSSES SUFFERED AS A RESULT OF WILD LAND FIRES

Mr. SHELBY. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H. Con. Res. 298 and the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

H. Con. Res. 298, expressing deepest condolences to the State and people of Florida for the losses suffered as a result of the wild land fires occurring in June and July 1998, expressing support to the State and people of Florida as they overcome the effects of the fires, and commending the heroic efforts of firefighters from across the Nation in battling the fires.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MACK. Mr. President, I rise today to again address the ongoing situation in my home state of Florida. As I mentioned earlier this month on the Senate floor, devastating wildfires have ravaged Florida, imp;acting all of our 67 counties since May 24, 1998. Since this crisis began, more than 2,000 separate fires to date have been identified and more than 500,000 acres have been burned.

The massive campaign which has been undertaken to contain these fires is encouraging. Firefighters from across the country have been part of this effort. On behalf of the state of Florida and its people, I would like to thank all of the states, communities, and families that have committed resources to these efforts.

Today, I join with the Florida Congressional delegation in support of H. Con. Res. 298. This resolution expresses our condolences to the people of the state of Florida who have suffered throughout this ordeal; and commends the important and heroic efforts of the firefighters, as well as the numerous federal, state, and community entities aiding in the struggle to contain and extinguish the fires.

I appreciate the work of my Senate colleagues who have enabled us to bring this resolution to the floor quickly. I hope this swift action by Congress will help bring attention to the continuing efforts of government and community leaders, and will help lift the spirits of those closely engaged in this battle. I thank the chair and I yield the floor.

Mr. GRAHAM. Mr. President, I rise today in strong support of H. Con. Res. 298, expressing our deepest condolences and support to the State and people of Florida for the losses they have suffered as a result of wild land fires that occurred throughout June and July of this year.

Many of my colleagues will remember that Andrew roared ashore in the middle of the night and vented its fury on the people of South Florida. The storm severely disrupted the lives of thousands of families. This August, Floridians will remember Hurricane Andrew with another natural disaster on their minds. Since May 24, a deadly combination of intense heat and prolonged drought sparked more than 2,200 forest fires in Florida's 67 counties.

Even for a state that is experienced in dealing with natural disasters, these fires have been spawned during what may be one of the worst years in Florida meteorological history. In late January and early February—in the midst of our state's dry season—several Northern Florida counties were deluged by massive floods. Not long after, parts of Central Florida were devastated by thunderstorms and tornadoes that are more typical in the summer months.

The fire crisis is the latest example of our state's climactic reversal of fortune in 1998. Florida's hot summer temperatures are typically accompanied by afternoon thunderstorms and tropical weather. This year's heat and drought, and the lush undergrowth and foliage that sprung up in the wake of Florida's unusually wet winter, combined to fuel the fires that have put the state under a cloud of smoke and chased nearly 112,000 residents from their homes—7,040 of them into emergency shelters.

Florida has sustained almost $300 million in private damage, and state and local governments have spent over $100 million in responding to the fires. In a step never before taken in Florida's long history with violent weather, every one of the 45,000 residents of Flagler County—a coastal area between Jacksonville and Daytona Beach—had to be evacuated from their homes over the Independence Day weekend.

Mr. President, Mother Nature has once again subjected Florida to unprecedented weather conditions. But with the memories of Andrew's aftermath still fresh in our minds, we know that the national response to our pleas for help is anything but unprecedented—and are moved by the immediacy of Americans' heartfelt offers of assistance.

In response to this crisis, Americans from 44 states are fighting side-by-side with Floridians to prevent these fires from endangering families and engulfing even more homes, businesses, and roads. For example, U.S. Marines, National Guardsmen, and National Weather Service meteorologists from all over the country have converged on Florida.

California, Oregon, and South Dakota—states whose residents are not strangers to violent weather and natural disasters—sent nearly 1300 fire fighting personnel to Florida. North Carolina, a state that is even more heavily forested than my own, sent 47 fire trucks and 169 firefighters to Florida. Pennsylvania, which lost more than 2,200 citizens in less than ten minutes during the catastrophic Johnstown flood of 1889, has contributed 89 volunteers to combat this natural disaster in 1998. In fact, so many states have donated equipment that two-thirds of all the firefighting helicopters in the United States are now working in Florida.

Mr. President, I have lived in Florida for more than sixty-one years. In that time, I have never observed wildfires as widespread and unmanageable as those that have plagued our state for the last forty-four days. On behalf of 14 million Floridians, I offer my deepest thanks to the thousands of Americans who have voluntarily left their homes and risked their lives so that our state's fire victims might not lose theirs. They are true heroes, and all of us who proudly call Florida our home are forever in their debt.

I am pleased to announce that the Herculean efforts of these brave firefighters were not in vain. Floridians who were forced from their homes have now returned, and almost all of the fires have been brought under control. Mr. President, I urge my colleagues in the Senate to support H. Con. Res. 298 to pay tribute to the citizens of Florida and those from around the nation who came to our assistance.

Mr. SHELBY. I ask unanimous consent the concurrent resolution be agreed to, that the preamble be agreed to, the motion to reconsider be laid upon the table, and statements relating to the resolution appear at this point in the RECORD.

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

The concurrent resolution (H. Con. Res. 298) was agreed to.

The preamble was agreed to.

ORDERS FOR FRIDAY, JULY 24, 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. on Friday, July 24. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to the vote on passage of the transportation appropriations bill as previously ordered.

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

Mr. SHELBY. I further ask consent that following disposition of the transportation bill, the Senate proceed to the consideration of H.R. 1151, the credit union bill.

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

PROGRAM

Mr. SHELBY. For the information of all Senators, tomorrow, at 9:15 a.m., the Senate will vote on passage of the transportation appropriations bill. Following that vote, the Senate will begin consideration of the credit union legislation. The leader has announced that

any votes ordered with respect to the credit union bill or any other legislative or executive items will be postponed, to occur on Monday, July 27, at a time to be determined by the two leaders.

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

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. SHELBY. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:14 p.m., adjourned until Friday, July 24, 1998, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, July 23, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. EMERSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
July 23, 1998.

I hereby designate the Honorable JO ANN EMERSON 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:

In addition to all we must know to do our work, all the facts, background, consequences, and magnitude of our action or inaction, we pray, gracious God, that we will also be blessed by the gift of wisdom. We pray that we will know discernment in our thoughts and sound judgment in our decisions as we weigh the worthiness and merit of what we do. We realize that facts and events gain meaning and power when they are blended with prudence and insight. As the scripture tells us, so teach us to number our days that we may get a heart of wisdom. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Washington (Ms. DUNN) come forward and lead the House in the Pledge of Allegiance.

Ms. DUNN 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 take 10 one-minutes from each side.

THE WORLD TRADE ORGANIZATION AND AMERICAN SOVEREIGNTY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, we will soon be debating an amendment which will define what powers the World Trade Organization will have over the ability of the American people, through their elected representatives, to determine our own fate, to make our own laws, to decide our own policies.

Should we sacrifice our sovereignty, our domestic interest in order to satisfy an international tribunal? I think not and I hope that our colleagues will agree. The WTO is selectively challenging our local, State and Federal laws, saying that they are infringements on free trade. No U.S. laws or regulations are safe from the reaches of the World Trade Organization. Even at risk are sanctions laws such as the ones passed by New York City and the States of California and New Jersey which protect Nazi Holocaust victims who had their assets stolen by Swiss banks. The Swiss have already said they want a WTO ruling on such sanctions. Is nothing sacred from the clutches of the WTO? Apparently not.

So along with the gentleman from Ohio (Mr. KUCINICH), the gentleman from Vermont (Mr. SANDERS), the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Florida (Mr. STEARNS), we will be offering an amendment to state that diplomacy does not mean surrender.

REPUBLICAN MANAGED CARE REFORM DOES NOT MEASURE UP

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

Mr. STUPAK. Madam Speaker, tomorrow we are scheduled to begin the debate on the Patients' Bill of Rights. I ask the American people to look at both plans, the Democratic plan and the Republican plan. As you do, you will see point by point the Democratic Patients' Bill of Rights bill is far superior in reform that will guarantee that doctors and patients and not insurance executives will decide your medical future. The right to have protection for women after mastectomies and reconstructive surgery is in the Democratic bill, not in the Republican bill. Democrats provide for a choice of doctor within a plan, access to specialty care, and direct access to OB-GYN for women. These are all parts lacking in the Republican plan.

To enforce your choice, and it is your choice and your access to your doctor, the Democrats allow enforcement in State courts if you are injured by your HMO plan. Why do you need that protection? Because in this country, two groups have immunity. They are HMOs and foreign diplomats. You pay for health insurance. You have the right to demand quality health insurance. Support the Democratic HMO Patients' Bill of Rights.

TRIBUTE TO MARGARET BARNETT

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

Mr. SHIMKUS. Madam Speaker, Mrs. Margaret Barnett has a distinction no other woman in Illinois has. She was the first female high school band director in Illinois. Mrs. Barnett studied piano and received her Bachelor's Degree from Shurtleff College in 1930. She played trombone with the St. Louis Symphony Orchestra and earned a Master of Arts Degree from Washington University in St. Louis, Missouri.

In addition, Mrs. Barnett studied clarinet at the Western Military Academy. Fortunately, Mrs. Barnett did not keep all her musical talent to herself. She taught every child the proper techniques on his or her instrument, leading her bands at Alhambra High School and Bethalto High School to win many contests and awards.

However, music was not the only subject Mrs. Barnett could teach. She taught English, mathematics and Latin at both Alhambra and Bethalto High Schools. She even served as librarian and assistant to the superintendent at Bethalto. Earlier in her career in 1932 she was Vice President of the Illinois State Teachers Association.

I applaud Mrs. Barnett for her dedication to teaching young people. She is definitely a pioneer and an inspiration for women in high school band positions. Most importantly, Mrs. Barnett is a role model for all teachers to follow.

RESULTS OF MANAGED CARE REFORM

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute.)

Ms. SANCHEZ. Madam Speaker, I rise today to share with my colleagues the success of a forum I hosted in my district on managed care reform. Since I came to Congress, I have listened closely to the managed care reform debate. I have also read the newspapers, I have seen the polls, and I have heard the horror stories.

This past weekend I did what every Member of this Congress should do, I heard from my communities. I learned that my communities do want reform and do want some type of Patients' Bill of Rights. They want Congress to initiate reform and to keep the interest of the patients in mind.

My constituents believe that HMOs are the future of health care, but they want to make sure that care is put above profits. Any bill that we pass is going to affect each one of these people, millions of Americans and thousands of Orange County residents.

Now, we may have to take some votes this week on the managed care bill offered by the Republicans. Let me tell you, they are not very happy about that bill. But before you decide to vote for any bill, I want to encourage my colleagues to host similar forums in their districts. By listening to your constituents, you will learn what changes are really needed. It is time that we give our constituents a voice before their choice is taken away.

2000 CENSUS

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

Mr. BARTLETT of Maryland. Madam Speaker, today on the House floor we plan to debate the Commerce, State and Justice appropriations bill. Funding for the constitutionally mandated census in the year 2000 is an issue that the American people will soon be hearing a lot more about.

First let me remind my Democratic colleagues of a provision in the U.S. Constitution that they routinely ignore in their discussions of the census. Because I know that Democrats are not in the habit of carrying around the Constitution with them, I will make their life easier by quoting Article I, Section 2 from the document to which you swore an oath:

> The actual enumeration shall be made within 3 years after the first meeting of the Congress of the United States, and within every subsequent term of 10 years, in such manner as they shall by law direct.

Now, despite the liberal Democrat habit of finding things in the Constitution, there is no getting around the words that are there for all to see. "Actual enumeration" no matter how you slice it means exactly what it says. Congress shall by law direct an actual count, not an approximate guess, poll or sample. Period.

DEMOCRATIC PATIENTS' BILL OF RIGHTS VERSUS REPUBLICAN INSURERS' BILL OF RIGHTS

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

Mr. ENGEL. Madam Speaker, this week we will be voting on a Patients' Bill of Rights, something that all our constituents want. The Republican plan as put forth in the House does not do anything, does not protect people, and I think it is time to take a look at the difference between the Democratic plan and the Republican plan.

The Republican plan fails to protect every American in a private insurance plan. Their plan only applies to 50 million people and leaves everyone else out in the cold. The Democratic Patients' Bill of Rights protects at least 140 million people, every American who is covered by a private insurance plan.

The Republican plan does not return health care decisions to health care professionals and their patients. The Democratic Patients' Bill of Rights does. The Republican plan does not guarantee patients the right to see a specialist when they need to do so. The Democratic Patients' Bill of Rights does. The Republican plan does not allow for access to OB-GYN for all women or emergency room coverage for all patients. The Democratic Patients' Bill of Rights does. The Republican plan does not hold insurance companies responsible for their actions denying patients the care they need. The Democratic Patients' Bill of Rights does.

When you stack the two up, Madam Speaker, there is no comparison. The Democratic Patients' Bill of Rights protects the American people, guarantees access to health care, and guarantees that this coverage will be there for all Americans. The Republican plan is just a public relations gimmick and a sham.

VOTE TO OVERRIDE VETO OF BAN ON PARTIAL-BIRTH ABORTION

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

Mr. PITTS. Madam Speaker, today is the day that the House will vote to override the veto of the partial-birth abortion ban. I want to illustrate here why President Clinton's position is the extremist position. This is a baby that could be born. But let me show you what happens. The doctor reaches in and turns this baby around so that the baby is born breech first. The head is still within the birth canal. Then at this time, the doctor inserts scissors into the back of the neck of the baby and then puts a suction tube in to suck out the brains of a live baby. Do you think this baby does not have pain and feel pain? This is a baby that could be delivered as a live baby boy or girl.

We need to vote to override this veto of the partial-birth abortion ban which is a horrific procedure in America.

SUPPORT THE DEMOCRATIC PATIENTS' BILL OF RIGHTS

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

Mr. FAZIO of California. Madam Speaker, I rise today to remind my colleagues about the real priorities of managed care reform. A woman from the Sacramento community I represent has waged a 4-year battle with her former employer and its self-insured ERISA plan. This woman is in court because her firm denied her care for her 7-year-old son born with a spinal cord injury facing many of the same challenges as actor Christopher Reeves. The law that shields employers who self-insure from accepting responsibility for denied medical services leaves this family with no health care for their son. When the plan started to refuse coverage, this woman had to choose between a job she was good at and enjoyed and the well-being of her child. So she quit her job to give her child nursing care 24 hours a day. But without this income, the family was forced into bankruptcy and lost its business.

While this case has dragged on in the courts, the brave little boy at the center of this tragedy has learned to walk and ride a bike. But his medical needs are still not being met. This debate is about helping hard-working families like this one get the best health care possible for their families. Nothing more, nothing less. To obtain this we need to support the Patients' Bill of Rights and oppose the unenforceable Republican plan.

MANAGED CARE REFORM

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

Mr. EWING. Madam Speaker, it is much easier to be a liberal than to be a conservative. Just consider for a moment what has been said by our colleagues on the other side during the debate on managed care over the past 2 weeks. The pattern here, you can see on almost every public policy issue. First, declare a crisis. Really? Although we know there are problems with legitimate managed care, the polls show 90 percent of the people with this care are satisfied. Second, propose a solution that will make the problem worse, thus giving the Democrats more opportunity to declare a crisis. The solution for the other side is always the same, more mandates, more lawyers, and, let us not forget, more government. This will raise the price, making

health care less affordable than it was before. The final step is to deny that their proposal will do anything of the sort. Then in a few years when the problem is even worse, they will declare their outrage again, just as they are doing now.

□ 1015

MANAGED CARE REFORM

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

Ms. WOOLSEY. Madam Speaker, last week a very good friend of mine went to the hospital to have a malignant tumor removed from his bladder. It was extensive surgery. It was outpatient surgery. He was sent home 5 hours after the surgery with a catheter and a bag at his waist line. This is outrageous. Later in the week, he did get a fever from an infection.

We cannot let this happen to the people in our country. We must have real patient reform. We have to protect the patients in our health care system. Do not vote today for a faux reform, or tomorrow, faux Republican reform. We need the Dingell-Ganske bill. We need to let doctors and patients decide when to send a cancer patient home from the hospital after extensive surgery.

PARTIAL BIRTH ABORTION BAN

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

Mr. RYUN. Madam Speaker, no civilized society should condone or even tolerate a heinous procedure such as partial birth abortion. Congress will again pass a ban on partial birth abortion and this time the President should sign the ban.

By his past veto, the President has demonstrated that he is out of step with 85 percent of the American people who support an end to this heinous procedure. With this in mind, I want to tell you about a miracle baby girl named Sarah.

Sarah appeared last year on CBS's "Mysteries and Miracles." When she was only four inches long, Sarah was taken briefly from her mother's womb to remove a growing tumor.

Sarah's heart stopped beating during the surgery, and the surgeon performed CPR for 20 minutes to revive her. In July of 1996, Sarah was delivered by C-section and is now a healthy toddler.

Unfortunately, even as lives like Sarah's are being saved by scientific breakthroughs, others are being extinguished through abortion. The care Sarah received from her surgeons provides a stark contrast to the treatment her mother might legally have chosen: a partial birth abortion.

MANAGED CARE REFORM

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

Mr. HOYER. Madam Speaker, everyone is talking about patients' rights. It is simple to talk about wanting patients to have rights and access to care. It is another thing, however, to provide for that in legislation.

There are two contending bills. Let me go through them. Access to enforcement in State courts: The Democratic bill, yes; the Republican bill, no. Protection for women after mastectomy: Democratic bill, yes; Republican bill, no. Choice of doctors within the plan: Democratic bill, yes; Republican bill, no. Access to specialty care: Democratic bill, yes; Republican bill, no. Direct access to OB/GYNs: Democratic bill, yes; Republican bill, no.

There are other provisions that I will not be able to cover in this 1 minute. But as we hear this debate and people talk about patients' rights, hold them to the criteria of not just talking about patients' rights, but ensuring patients' rights.

VETO OF EDUCATION SAVINGS ACCOUNT BILL

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

Mr. GIBBONS. Madam Speaker, once again, the counterfeit logic of the Democrats and this President have put the children of America at risk.

I am not talking about the sale of classified military technology to China. I am talking about the President's veto of the Education Savings Account bill. Put aside for the moment that this bill would have allowed parents to save for the future education of their children. The bill he just vetoed would have given schools greater leeway to expel and discipline students who bring guns or other weapons to school.

The bill he vetoed would have permitted school officials to implement safety measures to protect innocent children. How many times have we all heard the President state that safety at schools was one of his top priorities?

Madam Speaker, we can no longer sit idly by while the violence in schools continues to rise. Congress must override his veto and pass legislation that will enable our schools to develop local policies that end school violence.

Parents, teachers, and especially students all across America should not have to wait one more hour, one more day, or one more week for safer schools. Our children should be working on their education, not worrying about their safety.

I urge the President to reconsider and retract his veto and start protecting our children.

MANAGED CARE REFORM

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

Mr. PALLONE. Madam Speaker, make no mistake, the differences between the Democrats' Patients' Bill of Rights and the Republican HMO proposal are major. The Republican bill excludes key provisions that are essential for consumer protection and includes provisions that would reduce current consumer protections.

The Republican HMO plan seeks to give the appearance of reform without the reality. Among other gaps, the Republican plan still leaves medical decisions in the hands of insurance company accountants instead of doctors. It does not limit HMOs' and insurance companies' use of improper financial incentives to limit needed care. It allows drive-through mastectomies and fails to contain a requirement for coverage for reconstructive surgery after mastectomy. It does not give access to specialty care where needed.

The Republican bill does not guarantee patients access to needed drugs or clinical trials. And most important, the Republican bill provides no effective mechanism to hold plans accountable when plan abuse kills or injures someone.

Democrats will insist on a bill that contains guarantees that are a significant gain for health care consumers. The Republican plan is basically a sham.

CENSUS DEBATE

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

Mr. BALLENGER. Madam Speaker, should we count or should we take a poll? The census debate boils down to that difficult question.

The Democrats say, why should the Constitution stand in the way of rigging the numbers the way we want? After all, the Democrats are either unaware of Article I, section 2 of the Constitution that states in clear language that Congress shall direct that a census be conducted using an actual enumeration, or they simply wish to ignore it.

Either way, it is troubling that one party is willing to go so far to trample on the Constitution just for political purposes.

Most Americans do not have a Ph.D. in English or in American constitutional history. But most Americans do believe that sampling, guessing, or taking a poll does not qualify as actual enumeration, also believe the Constitution actually means what it says.

They are pretty tired of liberal Democrats inventing out of whole cloth things that are in the Constitution, no matter how many liberal experts in Washington tell us otherwise.

HMO REFORM

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

Ms. SLAUGHTER. Madam Speaker, Americans are frustrated with their managed care plans. It is no wonder; HMO horror stories abound. Every day we hear stories of people being denied care, doctors being forbidden from discussing treatment options, and patients unable to get justice when things go wrong.

Americans want a few simple things from their HMOs. In an emergency, they want care without having to worry about whether all necessary treatments will be covered. They want the right to visit the specialist who can address their health problems and the right to get prescription drugs they need.

They want accountability from HMOs and insurance companies when they are injured by abusive practices. They want absolute privacy in their medical records and protection from discrimination on the basis of their genetic information.

Unfortunately, we have not been given the opportunity to have any hearings or a markup on these issues, and, therefore, I encourage my colleagues to carefully consider the great need for legislation that will guarantee patient protection and put the emphasis on managing care rather than managing costs. I urge us to settle for nothing less.

We have a historic opportunity to end these horror stories. Let us not waste this opportunity on half-baked attempts at reform. Let us take this chance to guarantee the protections that Americans want and need in their health care plans.

VETO OF EDUCATION SAVINGS ACCOUNT BILL WAS WRONG

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

Mr. ROGAN. Madam Speaker, the President's late night, quiet veto this week of Education Savings Accounts—timed in order to miss the evening news—means that those that produced generations of education failure have dodged the bullet again.

The other side should explain to America why encouraging parents to save for their children's education is a bad thing. Oh, they are long on heart-warming rhetoric about their care and compassion for "the children" and for "education;" but when it comes to education reform legislation that threatens the special interests that gave us these failing schools in the first place, they are woefully short on action.

They send their own kids to private schools, but then they tell working parents who want to save for their children's education "no."

Madam Speaker, Republicans in Congress are not content to simply talk about "the children," we will fight for children, and for the world-class education they deserve. We will continue the fight for working parents who want to be able to save for their children's education through Education Saving Accounts.

VIGILANCE OF BROWN TREE SNAKE NEEDED IN HAWAII

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

Mr. ABERCROMBIE. Madam Speaker, I rise this morning to express my support for provisions in the Interior Appropriations bill we are debating today for the funding of the Brown Tree Snake control efforts.

The consequences of the Brown Tree Snake becoming established on any of the Hawaiian Islands would be devastating. We have only to look at Guam to understand the potential extinction of many species will, not might, result from the introduction of the snake to Hawaii.

Guam now experiences an instance of more than 12,000 of these snakes per square mile. Entire species have disappeared from Guam since World War II when the snake was accidently brought to the island, most probably abroad military aircraft which had visited areas of the South Pacific in the snake's natural habitat.

The Interior Appropriation bill contains $2.1 million for prevention, education, and inspection programs, an increase of $500,000 over last year. We need to step up our vigilance in Hawaii against this invasive species which has brought wildlife ruin elsewhere.

The scientific community has not yet developed an effective eradication method. Although I hope we can soon understand how to control and eliminate the snake, until that time, the only action we can and must take is preventing its introduction into Hawaii.

I am very pleased that the Committee on Appropriations has recommended an increase, and I look forward to working with my colleagues in achieving the highest funding level to achieve our goals.

PATIENT PROTECTION ACT

(Ms. DUNN asked and was given permission to address the House for 1 minute.)

Ms. DUNN. Madam Speaker, I rise today in support of the Patient Protection Act, the Republican plan to provide greater accessibility, affordability, and accountability in our Nation's health care system.

This plan will make a real difference in the lives of America's working women for a lot of reasons. Small businesses in this country are increasingly dominated by women who are looking to make their mark in a growing economy. Unfortunately, right now the cost of health care makes it very tough for them to purchase health care for themselves and their families.

That is why the Republican plan makes the cost of health care for small businesses 100 percent deductible, and it allows small businesses to band together to purchase health care at the same discounted rates that are currently enjoyed by big business.

These sensible reforms, combined with our plans giving a woman's right to choose an OB/GYN as her prime caregiver, are essential to improving access to health care for the many women in this country who are helping to drive this Nation's economy. They stand in stark contrast to the Democrat bill which does nothing to make health care more affordable or accessible to American women.

I urge my colleagues to support the Patient Protection Act when it comes to the floor tomorrow.

MANAGED CARE REFORM

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

Ms. DELAURO. Madam Speaker, as a cancer survivor, I can tell you that when you are diagnosed with a deadly illness you come face to face with your own mortality. While you are wondering whether you are going to live or you are going to die, you should not have to worry that 2,000 miles away an HMO accountant is making the decisions about what kind of treatment that they are going to provide or what kind of drugs can be provided for your illness. These are the kinds of decisions that ought to be made by doctors and patients, period.

The Democrats do have a managed care reform proposal that would ensure the critical health care decisions are made by doctors and patients and not HMO bureaucrats. Yet, the Republican proposals would not provide access to specialty care for cancer patients, provide the necessary needed drugs, prohibit drive-through mastectomies. They have no direct access to OB/GYNs. The last straw is they have no access to State courts if your HMO plan injures you.

What they do allow is for those company accountants to continue to value its HMO healthy profits over the healthy patients that are in this country. Let us return medical decisions back to doctors and patients. Let us pass the Democratic Patients' Bill of Rights.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–158)

Mr. CANADY of Florida. Madam Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Ms. EMERSON). The Clerk will report the motion.

The Clerk read as follows:

Mr. CANADY of Florida moves to discharge the Committee on the Judiciary from the further consideration of the president's veto of the bill H.R. 1122.

(For veto message, see proceedings of the House of October 21, 1997 at page 22336.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. CANADY) is recognized for 1 hour.

Mr. CANADY of Florida. Madam Speaker, I yield the customary 30 minutes to the gentleman from Virginia (Mr. SCOTT), pending which I yield myself such time as I may consume.

□ 1030

Madam Speaker, today for a second time the House considers a presidential veto of bipartisan legislation banning partial-birth abortion. In the last Congress, although the House overrode President Clinton's veto of the Partial-Birth Abortion Ban Act of 1995, the veto was sustained in the other body. Shortly after the current Congress convened, new legislation to ban partial-birth abortion was introduced. In due course, the Partial-Birth Abortion Ban Act of 1997 was passed by both Houses. President Clinton's veto of that legislation is before the House today.

Just 2 weeks ago, the Members of this House and the American people received a stark reminder about the reality of partial-birth abortion. We read in press reports of a tiny baby in Phoenix, Arizona, who was almost killed by a partial-birth abortion. The baby girl survived with a fractured skull and deep lacerations on her face. She survived only because the abortionist stopped the procedure when it became obvious that she was at 9 months and not 5½ months, as had originally been thought. The abortionist stopped, but we know, nevertheless, that partial-birth abortions are performed from the fifth month through the ninth month of pregnancy, and that a baby feels excruciating pain during a partial-birth abortion at any stage of pregnancy. Miraculously, in this case, a little girl who was marked for destruction is alive today and a Texas couple have come forward to adopt her.

Of course, we know that surviving an attempted partial-birth abortion is very much the exception. Tragically, most of the babies singled out for partial-birth abortion have their lives brutally snatched away, just within inches from being fully born.

Now, despite the campaign of deception waged by the abortion industry to cover up the facts about partial-birth abortion, we know that this gruesome procedure is performed thousands of times a year. We know that in the overwhelming majority of cases, it is performed on the healthy mother, mothers of healthy babies.

We know that the abortion industry that claimed that partial-birth abortion is a rare procedure used only in extreme cases was a lie all along. We know this because the facts are undeniable and because representatives of the abortion industry have themselves ultimately admitted that the industry have been lying all along.

With their campaign of deception exposed, with the lies revealed in the full light of day, what do the advocates of partial-birth abortion say now?

They say that partial-birth abortion is necessary to protect the health of women. They say that partial-birth abortion must be preserved as an option for abortionists to use. They say that it is a necessary medical procedure. These claims, like all their other claims about partial-birth abortion, are false, untrue from start to finish.

When we hear the claims of the defenders of partial-birth abortion, I ask the Members of the House to consider what partial-birth abortion is. Look at what this brutal procedure actually involves. This is partial-birth abortion:

Guided by ultrasound, the abortionist grabs the live baby's leg with forceps. Look at this procedure.

The baby's leg in the next step is pulled out into the birth canal.

The abortionist then delivers the living baby's entire body, except for the head, which is deliberately kept lodged just within the uterus.

Then, in the final step of this horrible procedure, the abortionist jams scissors into the baby's skull. The scissors are opened to enlarge the hole.

Then, after the baby has been killed, the scissors are removed and a suction catheter is inserted. The child's brains are sucked out, causing the skull to collapse, and the delivery of the dead child is completed. This is the final step. This is what we see at the conclusion of every partial-birth abortion.

Now, I have described this procedure many times. I wince every time I describe it. It is a horrible thing to describe; it is a horrible thing to contemplate. And to the Members of this House who support partial-birth abortion, I would appeal to them, I would appeal to them to look at what is happening whenever a partial-birth abortion is performed.

Now, let me ask my colleagues, how is this horrific procedure calculated to protect the health of the mother? That claim simply makes no sense. It is absurd to claim that killing a partially-delivered child in the birth canal is necessary to protect the mother's health. How does this death blow delivered by the scissors into the tiny baby's skull help preserve the health of the mother?

Madam Speaker, listen, listen to what Dr. Pamela Smith, Director of Medical Education, Department of Obstetrics and Gynecology at Mt. Sinai Hospital says, and I quote her:

There are absolutely no obstetrical situations encountered which require a partially delivered human fetus to be destroyed to preserve the health of the mother.

Listen to Dr. Nancy Romer, a practicing high-risk obstetrician-gynecologist who is also a professor of medicine. Dr. Romer says this:

People deserve to know that partial-birth abortion is never medically indicated, whether to save the health of a woman or to preserve her future fertility.

I would appeal to my colleagues to also listen to the American Medical Association on this issue, which, despite its strong support for abortion rights, has supported this legislation to ban partial-birth abortion. The American Medical Association itself recognizes that partial-birth abortion is not a legitimate medical procedure.

The health argument used by President Clinton and the other defenders of partial-birth abortion is nothing more than a pretense. It is a cloak for the extremist position that abortion for any reason at any stage of pregnancy, and using any procedure imaginable should receive the absolute protection of the law of the land.

I would appeal to my colleagues to reject this extremist position, listen to the voice of reason, cut through all the lies and deception, base your vote on the truth, think of the babies who are subjected to this horrible practice. If my colleagues do so, they will vote to override the President's veto.

This House should, once again, reject the President's extremist position in support of partial-birth abortion, and move forward to override his veto of the Partial-Birth Abortion Ban Act.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, the motion before us is to discharge the Committee on the Judiciary from further consideration of the bill. Madam Speaker, the Committee on the Judiciary has not considered the bill at all. It was referred to the Committee on the Judiciary several months ago. The thing that the Committee on the Judiciary really ought to consider, for example, is: is the bill constitutional or not?

This bill is not about whether or not a decision on abortion should be made; the question is which procedure ought to be used, and there are cases, a long line of cases that say directly that we cannot intervene and make the decision for the physician and the mother as to which procedure ought to be used. The Committee on the Judiciary ought to consider those decisions.

We have been asked now to discharge them from further consideration of the bill. Madam Chairman, the Roe versus Wade decision, the Casey versus Planned Parenthood and other cases have shown that we cannot intervene in this decision.

We have heard the description of a case in Arizona. This bill would not have an effect on that because the decision for the abortion is made and then one decides on the procedure. If one cannot use this procedure, then one would use another procedure. The decision for the abortion is a separate decision.

We ought to oppose the motion to discharge, and instead, require the Committee on the Judiciary to do its job, determine whether or not the bill is constitutional, which the supporters in committee last time it was considered acknowledged that it was not constitutional. We ought to fashion a constitutional bill, and there are many alternatives that we could have brought to the floor rather than this bill.

Madam Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Madam Speaker, I rise today in support of the motion to override the President's veto. As a mother and a grandmother of 7, this is an especially heartbreaking issue.

My colleagues have just seen the graphic details. Suffice it to say, partial-birth abortion is a horrific way to end the life of a tiny 9-month-old baby. It has no place in a civilized society.

This should not be a divisive issue. We are talking about killing, killing healthy babies. These are babies that have long been able to survive outside their mother's womb.

Madam Speaker, most Americans are really shocked when they learn that this procedure is legal. It is closer to infanticide than to abortion. For most of us, this is a no-brainer. Today when the vote is called, we will see many pro-choice Members of Congress vote against the President's veto. Madam Speaker, after all, accidental gun deaths are a really big problem in this country, yes, but every year, far more children are killed by partial birth abortions than are killed in accidental shootings.

By overriding the President's veto, we are going to stand up for the thousands of newborn children, those children who do not have a say in our political process. If we fail to do so, I fear that the House will condone infanticide in the name of preserving abortion rights.

The choice is easy. Let us override the President's veto.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Madam Speaker, this bill, the subject of this debate, targets the most vulnerable women—women who want to be mothers, but who have found that something has gone terribly wrong with their health or with the fetus. None of us support late-term abortions for no reason, and yet supporters of this bill would have us believe that women come to this terrible and tragic decision arbitrarily. They talk of procedures and ignore the tragedy impacting the lives of real people, real families, women who want to be mothers.

So I urge my colleagues to sustain the President's veto today, and then go back and write a bill that matches the rhetoric that we hear but that takes into consideration the health and life of the mother, because that is consistent with Roe versus Wade, which certainly allows the States to act to ban third-term abortion.

The procedures that we have discussed here are rare and they should be so. Only when no alternative exists should they be used, but to ban them without further recourse is callous in and of itself.

Madam Speaker, I urge my colleagues not to target women and families when a pregnancy has turned to crisis and becomes a tragedy. I think we should let a woman, her doctor, her family make this terrible choice. This is not the role of government. I hope we will sustain the President's courageous decision to veto this bill, and if we fail, I know the Senate will.

This is a terribly complex area in which to legislate. I fear we have made this more of a political debate and over looked the kind of in-depth analysis of the real situation that people caught in this terrible tragedy face.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Madam Speaker, I rise today to strongly urge my colleagues to vote to ban partial birth abortions. This is a moral blind spot that this Nation can no longer allow. It is gruesome, it is barbaric, and it is brutal. We have the opportunity today to ban this procedure with our vote to override the President's veto.

Killing a baby as it is being born is simply an act of brutality. Our Constitution protects us from cruel and unusual punishment; I submit that partial-birth abortion is both.

Now, last week I joined with some of my colleagues on both sides to provide the option of contraception in order to try to find ways to prevent unwanted pregnancies that too often result in abortion. Today I encourage my colleagues, women and men, Democrats and Republicans, pro-life and pro-choice Members, to come together and ban this procedure today.

□ 1045

I urge support for this. I would encourage my colleagues to come together today and ban this procedure. Not just today, not just for tomorrow, but well into the future.

Join together, as we did last week with the strong support of both sides of the aisle, to try to do what we think is right. It is not oftentimes when we consider budgets and pot holes and hydrogen and space programs that we vote on life itself. This is one of those votes. I encourage bipartisan support for our position.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Madam Speaker, I am strongly opposed to late-term abortions. In fact, in 1987, as a member of the Texas Senate, I helped pass a law that is law today that is saving babies from late-term abortions.

But, Madam Speaker, there is a huge difference between the bill that we passed that is law today in Texas, that is working, and the bill that was designed for maximum political sound bite impact that we are voting on today.

The first difference, in Texas our goal was to save babies. That is why we outlawed all late-term abortion procedures. This bill, if Members look at it carefully beyond the 30-second sound bite and TV ad appeal of it, this bill still allows abortions to occur in America on the 29th day of the eighth month of pregnancy.

The sponsor of this bill just a moment ago said we should be honest in this debate. Let the proponents of this bill be honest to the American people in saying that this bill, this bill will allow abortions in America at the eighth month, 29th day. We did not think that was right in Texas, and that is why we wrote the law differently. I think the supporters of this bill ought to discuss that point. That is one reason, frankly, I think this bill should go back to committee for further consideration, rather than political debate here today.

Second difference. In Texas, because we wanted to save babies and not make a political point, on a bipartisan basis we crafted a bill that would meet constitutional guidelines. This bill is clearly unconstitutional, one of the reasons the President vetoed it under the guidelines of Roe versus Wade and as has been established by Federal judges and courts across this country from one State to another.

The third difference between the Texas law today and the bill we are debating today is in Texas we trusted women to make responsible choices in very rare tragic pregnancies. This bill does not trust women to make those responsible choices.

Specifically, the Texas law said in those rare cases where a woman's health was seriously at risk or her fertility at risk, the incredibly difficult

emotional decision about how to preserve the mother's ability to have children in the future should be a decision made by that woman and her doctor and her God, and not by politicians in Austin, Texas, or in Washington, D.C.

Madam Speaker, in my personal opinion, if there is one frivolous late-term abortion using any procedure anywhere in America, that is one too many and we ought to stop it. But this bill does not do that. What this bill does is potentially, according to the American College of Obstetricians and Gynecologists, the experts in this field, this bill what it is really going to do is risk women's health and their ability to have children.

Madam Speaker, we ought to send this bill back to committee and make a bill that works, not a bill that makes sound bites.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Madam Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding me this time.

Madam Speaker, I wanted to address a point by the previous speaker about the fact that the Texas law preserves the right of a woman to more children; that is a higher choice than right to the life of a matured child yet in its mother's womb.

The fact we need to remember is that that baby who is being killed and delivered by the partial-birth abortion will not only not have a choice for its own fertility in the future, it will not even have a life, and that is what this bill is about, preserving life.

Now, we preserve all kinds of things in this Nation, including things that may need to be utilized. But preserving life is our number one criteria and our duty as lawmakers.

I rise in strong support of H.R. 1122, the Partial-birth Abortion Ban Act. Last year, apologists for this abominable practice raised a fog of mendacity over the whole issue, but yet that today, that fog of mendacity has been pierced. There is greater understanding.

Let the truth be known that thousands, thousands of partial-birth abortions are performed every year on mature children that are yet unborn.

On June 30, for instance, of just this year, 1998, an Arizona abortionist stopped a partial-birth abortion right after he began it. The baby's skull was crushed and the baby was born with a crushed skull and facial lacerations. That was carried in the national news, this very disturbing news. But thank goodness that that doctor realized at that very critical moment that was a living being. That was a child, and that he was going to end that child's life.

Even that doctor and everyone else can clearly see that this issue, Madam Speaker, that partial-birth abortion is murder. This procedure is medieval, and so is the logic of those who advocate and apologize for it. This debate is not about when life begins, for the infants targeted by this procedure are mature babies.

Madam Speaker, as lawmakers, we do have our first responsibility to preserve life and preserve life of the most vulnerable kind, babies yet unborn in the mother's womb.

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

Madam Speaker, very briefly I would state that the bill does not prevent a single abortion. In fact, if this bill passes, women who have abortions may have to undergo sterilization and not be able to have children in the future, because this bill does not have a health exception.

Madam Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Madam Speaker, this is one of the most painful debates that this House has to face, but it does not compare with the decision facing parents, a medical decision that few have had to confront.

For some families, the only hope of retaining a woman's ability to have children is at stake in this Congress. It has been a tenet of privacy and citizenship in the United States that the doctor-patient relationship is sacrosanct. And yet for the first time in the history of this Republic, over 200 years, this Congress is trying to outlaw a medical procedure and to determine whether it should be used or not.

What is next? Last week the gentlewoman from Connecticut (Mrs. JOHNSON) in what I thought was a very poignant moment, when some were trying to outlaw contraceptives said, "Is there no limit to where this Congress will go to insert itself into the most private decisions that human beings have to make?"

Perhaps we can go further. Perhaps the next procedure we will outlaw here will be hysterectomy during childbearing years. I submit that some of the people in this House think that should be outlawed.

But most importantly, I want to ask my colleagues and the American public to consider this issue: When confronted with a medical decision that could break a woman's heart and destroy her future chances to be a mother, who would she prefer to consult? Would she in that circumstance want to talk to her doctor, her family, or her spiritual advisor or, as Congress has determined, would she be just as satisfied to talk to her Member of Congress?

Madam Speaker, I submit that we are no way qualified to make this decision and that on behalf of the parents who are confronted with this awful determination to be made, I pray we will not override this veto.

Mr. CANADY of Florida. Madam Speaker, I would inquire concerning the amount of time remaining on each side.

The SPEAKER pro tempore (Ms. EMERSON). The gentleman from Florida (Mr. CANADY) has 16½ minutes remaining, and the gentleman from Virginia (Mr. SCOTT) has 20½ minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Speaker, I rise today to urge my colleagues to vote against this ill-conceived and mean-spirited effort to override the President's veto of H.R. 1122.

Let us consider what we have learned since the House last considered this so-called partial-birth abortion ban. Six of the nine States that have passed these laws using language from the Federal bill have had their laws enjoined by the courts. Moreover, 18 respected judges from a range of ideological viewpoints across the country have found that H.R. 1122 is so vague and overreaching that it could prevent legal abortions throughout pregnancy.

Make no mistake about it, preventing legal abortions is exactly what the proponents of this bill intended. Their goal is not ultimately to ban a specific medical procedure, but it is ultimately to outlaw abortion altogether.

Members should not just take my word for it, but should listen to the words of the Federal judges from across the political spectrum and across the country. Iowa District Judge Robert W. Pratt held that the partial-birth abortion law is, "unconstitutionally vague and unduly burdensome on a woman's constitutional right to an abortion."

Illinois Judge Charles P. Kocoras held that, "The statute, as written, has the potential effect of banning the most common and safest abortion procedures."

U.S. District Judge Richard Kopf of Nebraska said, "A criminal law, especially one banning protected constitutional freedoms like abortion, that fails to give wordings or that allows arbitrary prosecution is 'void for vagueness.' Nebraska's partial-birth abortion ban is the epitome of such a law."

Now, the esteemed gentleman from Indiana (Mr. ROEMER) said that he was glad, and I am glad too, that last week he voted to allow the free use of contraception. No one likes abortion. I abhor abortion. But abortion is what we need from time to time when pregnancies go tragically awry. In the meantime, we need contraception.

Regrettably, almost 200 of our colleagues did not agree with the gentleman from Indiana, and they in fact would ban four of the five approved forms of contraception in this country.

That is what this agenda item is about. This agenda item is not about

saving healthy babies. This agenda item is about ultimately banning not only abortion, but a woman's right to birth control so that she can choose the direction of her own body.

Madam Speaker, if this was such a critical problem in this country right now, why did we wait since October 1997 to override the President's veto? We could have saved, according to my colleagues on that side of the aisle, hundreds of healthy babies. No, this is not a critical health problem in this country. This is a political issue for the 1998 elections.

Mr. CANADY of Florida. Madam Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, 25 years after Roe v. Wade, I believe it is time for a serious reality check and a compassion check as well.

Supreme Court imposed abortion-on-demand in America has claimed the lives of more than 36 million boys and girls and, although grossly under-reported, has resulted in death, injury, and emotional trauma to women.

It is time to come to grips with the truth and to ask the question why we seem to care so little about a whole generation of babies lost.

Abortion methods, Madam Speaker, are violence against children. Abortion methods dismember and chemically poison kids. There is absolutely nothing compassionate about dousing a baby with superconcentrated salt water or lethal injections into the baby's beating heart, or hacking the baby to pieces with surgical knives.

□ 1100

Why do so many of us live in denial concerning this pernicious violence against children?

Today, Planned Parenthood and the rest of the abortion lobby is asking the House to sustain a misguided veto so as to permit and empower abortionists to continue to murder children as they are being born. To legally sanction such an execution begs the question: Is there nothing the Congress or President will not embrace under the banner of "choice"? Are the lives of little girls and boys so cheap?

Madam Speaker, earlier this month a 6-pound baby girl, "Baby Phoenix" as she is now called, was born with a skull fracture and lacerations on her face after an abortionist, Dr. John Biskind, unsuccessfully attempted to perform a partial-birth abortion on her 17-year-old mother. "Baby Phoenix" is the first known survivor of this brutal procedure.

It has taken years, and the deaths of thousands of children and at least two women, who he left to bleed to death, but Dr. Biskind now will not be allowed to continue his murderous ways. This week the State medical board voted to suspend his license. The irony is that it is not the deaths he caused that brought the board's disfavor, but the fact that a baby whom he was trying to kill actually survived and was delivered alive.

Madam Speaker, some on this floor, and in Dear Colleagues that have been sent out, suggest that the Hoyer-Greenwood proposal somehow will prohibit all late-term abortions. Nothing, I would say, is further from the truth.

Lest any of us be deceived, the Hoyer-Greenwood bill places no restriction whatever on late term abortions. While it is not on the floor today but it is being referred to in this debate as an alternative, the plain meaning of the language places no restriction whatsoever, not even symbolic limitations, on partial-birth abortions performed before an individual baby can be proven to be viable; that is, definitely able to survive if born prematurely. The vast majority of partial-birth abortions are performed in the 5th and 6th months of pregnancy, when the baby's lung development is not quite sufficient or barely sufficient to allow independent survival.

Second, even after the baby is demonstratively viable, the Hoyer-Greenwood bill would permit abortion by partial-birth abortion or any other method, if in the medical judgment of the attending physician, that is to say the abortionist, that the abortion is necessary to avert serious adverse health consequences to the woman.

In a March 12, 1997 press conference in the House Radio-TV gallery, which was tape-recorded, my good friend and colleague, the gentleman from Maryland (Mr. HOYER), was asked directly what the word health means in his proposal. The gentleman responded. "It does include mental health. Yes, it does."

He then went on to explain that mental health would include psychological trauma. Thus, unless my colleagues believe that it should be permissible to kill a baby, even during the final 3 months of pregnancy, a premature infant, for reasons of mental health or psychological trauma, they should not support H.R. 1032. And if my colleagues believe that it should not be permissible to pull a living baby feet first into the birth canal, puncture her skull and remove her brain in the 5th and 6th months, please vote to override the President's veto. Support the motion to override the President's misguided veto.

Mr. SCOTT. Madam Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Madam Speaker, I thank the gentleman for yielding me this time and stand to oppose the motion to discharge.

The previous speaker, my colleague from New Jersey, said it is time for a reality check and a compassion check. I think that is quite true. Let us start with the reality check.

My friend from New Jersey just described abortion in horrific, horrible terms, as if that is what abortion is all about. In fact, it was just last week that the gentleman from New Jersey stood at this podium and could not tell us whether the birth control pill was abortion. In fact, he told us the IUD is abortion. The reality check is, and I will turn to this chart, the reality check is that this is when abortions occur in America: Overwhelmingly early in pregnancy.

Now, let us have a compassion check. Who could vote against this bill after it has been described in such horrific terms? I am going to vote against this bill, and I will match my compassion ratings with anyone. Most of my career, before I went into politics, was as a social worker. I worked with handicapped children. I worked with abused children. I held them in my arms. I rescued them from danger. I loved them and I cared about them. I love and I care about my children. I love babies. That is not what this is about.

This bill is based on a fraud, and the fraud is that this procedure is used frequently late in pregnancies. As this chart shows, 99 percent of all of the abortions in America occur prior to the 20th week of gestation; the overwhelming majority, 89 percent, prior to 12 weeks; 99½ percent of the abortions in America occur before the 22nd week; and 99.94 percent of abortions in America occur before the 24th week.

The reason Americans are confused about this bill is because people have intentionally tried to confuse them with the notion that somehow women in their 7th, 8th and 9th month of pregnancies are having abortions. And they are not, except for the most extraordinary, extraordinary medical reasons, and reasons that require compassion from all of us.

Now, to put to an end this debate about whether somehow in America women are getting late-term abortions after the 6th month for frivolous reasons, the gentleman from Maryland (Mr. STENY HOYER) and I offered a substitute to this bill which would have banned this procedure and all procedures beyond viability, beyond the 24th week, except for the most extraordinary cases, where the health of the mother or the life of the mother is at risk.

What saddens me is that we, my friends, my colleagues, are not spending our time on the floor of this body trying to prevent 99 percent of the abortions, trying to prevent unintended pregnancy, which we could do in so many ways in which we could agree: Using birth control, using education, helping define mentors for young ladies in situations where they do not have proper guidance in their lives, so they are not the victims of sexual predators way beyond their age engaging them in inappropriate sexual activities and impregnating them.

This is where America's work needs to be done. It does not need to be done out beyond 99.94 percent of the abortions in America. Because, in fact, those abortions are rare and done for the most extraordinary reasons and, again, reasons that require our compassion.

Mr. CANADY of Florida. Madam Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Madam Speaker, I appreciate the gentleman yielding.

Is it not true that the bill the gentleman has sponsored would give the abortionist unfettered discretion to determine when an abortion would be performed during the third trimester or post viability? Because the gentleman has an exception in there that says that the abortion can be performed if in the medical judgment of the attending physician, that is the abortionist, the abortionist believes it is necessary. Is that not in the gentleman's bill?

Mr. GREENWOOD. Madam Speaker, it certainly is. It certainly is. And I know that the gentleman knows the facts, because he is a student of them, but anyone who knows the facts knows that that is not a loophole through which hundreds or dozens or scores of women would proceed.

The fact of the matter is that under Roe versus Wade today doctors have the opportunity to allow late-term abortions for medical reasons. And the facts show indisputably that this is an exception that is not abused. We cannot find an abortionist in this country who will do a late-term abortion for frivolous reasons.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Madam Speaker, this is amazing to me. This is a vote about common decency. This is a procedure that is gruesome, it is inhuman, and it is unnecessary. The gentleman from Pennsylvania, I just answer him when he says it is rarely used, that even Everett Koop said, and I quote, "In no way can I twist my mind to see that partial birth and then destruction of the unborn child before the head is born is a medical necessity for the mother." The President has turned his back on millions of Americans who are sickened by this procedure.

To the gentleman from Pennsylvania, who said that this is a rare procedure, and then tried to cover things up with statistics, I would say that, in fact, in New Jersey alone 1,500 babies were killed with this procedure and are killed every year.

Now, we do not like to hear the details about this procedure. We do not like to talk about such things in public or in private. But, Madam Speaker, we must talk about them. The implications that we face if we do not are too far-reaching. The media rarely describes partial-birth abortion. They and some of my colleagues here today will politely call it a certain late-term procedure. Well, I submit to my colleagues that there is nothing polite about this procedure. Certainly the aborted baby, whose life is snuffed out in such a violent way, does not think that this is a polite procedure.

Madam Speaker, human life is precious. When we allow human life to be so coldly and violently taken in the manner of the partial-birth abortion, we are all diminished as a society. So I urge my colleagues to think before they vote. This is a conscience vote. Is this the kind of procedure that my colleagues would be proud to tell their children that they supported? Is this the kind of violence that they would be comfortable in defending when it comes time to meet their maker?

This is a real gut-wrenching conscience vote. Vote to override the President's veto.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER)

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding me this time, and if the gentleman would stay in the well, I would ask my friend from Texas, I understand what he has said, and I agree with his proposition of the American public's view. I ask him this. He talks about a procedure. Is there a procedure that he believes is preferable?

Mr. DELAY. Madam Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Madam Speaker, there is no procedure that is preferable in killing a baby that is about to be born naturally, no. I do not believe in a procedure that will kill a baby. I ask the gentleman back——

Mr. HOYER. Reclaiming my time.

Mr. DELAY. At what time is it appropriate to kill a baby?

Mr. HOYER. Reclaiming my time.

Mr. DELAY. What time? The gentleman ought to answer that.

Mr. HOYER. The court clearly has said that in terms of the Constitution there is a right of a woman and her doctor to make that decision and to terminate the pregnancy.

My question, and rather than yell at one another, rather than accuse one another of awful things, I want to find out what we are talking about. It is my premise that the gentleman does not believe there is any procedure, at any time, that is less than objectionable. Am I correct in that premise?

Mr. DELAY. I think the gentleman's question is grammatically in error.

Mr. HOYER. I would ask the gentleman to not quibble with me. I would ask the gentleman not to quibble with me; I am not trying to quibble with him. I am trying really to get to the heart of what I think is a difficult issue for the American public and for everyone on the floor.

Mr. DELAY. Well, ask the question. If the gentleman would ask the question in a manner someone can understand it, I will be glad to answer it.

Mr. HOYER. All right. Does the gentleman believe there is any procedure acceptable to terminate a pregnancy at any time?

Mr. DELAY. No, I do not.

Mr. HOYER. Reclaiming my time.

Mr. DELAY. Unless it is for the life of a mother and a decision must be made between the baby and the life of the mother. Then that decision should be made. But, no, I do not believe that at any time an unborn child should be murdered just for convenience. No.

Mr. HOYER. Reclaiming my time, I understand what the gentleman said. In the case of the life of the mother, which the gentleman indicates he believes is an exception, what procedure would he advocate? What procedure to terminate the pregnancy would the gentleman advocate?

Mr. DELAY. We do not have to use this procedure.

Mr. HOYER. No, I understand that. Which procedure would the gentleman advocate?

Mr. DELAY. I would like to answer the gentleman's question. Doctor after doctor, including C. Everett Koop, who was the surgeon general, says that there is no reason whatsoever, even for the life of a mother, that this particular procedure must be used, where a baby is nearly born and then they suck the brains out of its head before it is fully born.

Mr. HOYER. Reclaiming my time, I know the gentleman wants to make this debate as gruesome as he can. I understand that. I ask the gentleman again: In the instance in which the gentleman says is acceptable, saving the life of the mother, what procedure would the gentleman think is preferable?

Mr. DELAY. And if the gentleman will yield, I will tell the gentleman that this is a gruesome procedure for the baby that it is being performed on.

Mr. HOYER. I understand.

Mr. DELAY. I am once again answering the gentleman that many doctors have already said and written extensively that this particular procedure does not have to be used.

□ 1115

Mr. HOYER. Madam Speaker, reclaiming my time, the gentleman does not either have an answer to my question or does not want to answer it. My presumption is that because he has no alternative, is there a procedure which he would believe was appropriate to save the life of the mother and, if so, what is that procedure.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Virginia (Mr. SCOTT) has 9½ minutes remaining, and the gentleman from Florida (Mr. CANADY) has 10½ minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I yield 4 minutes to the gentlewoman from Washington (Mrs. LINDA SMITH).

Mrs. LINDA SMITH of Washington. Madam Speaker, first I would like to read and then submit for the RECORD the American Medical Association letter endorsing this bill and saying that it is an unnecessary procedure.

I think it is real revealing because the American Medical Association rarely or never interjects and makes illegal an abortion procedure, but they have made an exception in this case. I am going to read this short letter because it says a lot and it blows away a lot of the smoke about how this bill works.

It says, "The Partial Birth Abortion Ban Act of 1997," as amended, that we support this. Then it goes on to say, "Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined," and listen, "not medically indicated." Otherwise, not medically necessary. "H.R. 1122 now meets both those tests.

"Our support of this legislation is based on three specific principles. First, the bill would allow a legitimate exception where the life of the mother was endangered, thereby preserving the physician's judgment to take any medically necessary steps to save the life of the mother. Second, the bill would clearly define the prohibited procedure so that it is clear on the face of the legislation what act is to be banned.

"Finally, the bill would give any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial commenced. In this manner, the bill would provide a formal role for valuable medical peer determination in any enforcement proceeding.

"The AMA believes that with these changes, physicians will be on notice as to the exact nature of the prohibited conduct."

Then in quotes, they have made it very clear, and I have the quotes and we can submit them, that they do not believe that partial birth abortion is ever needed.

I want to talk about this procedure briefly because sometimes we forget what it is; and it is not pretty, but we are talking about lives and we are talking about law to protect vulnerable women and vulnerable babies.

The procedure takes 3 days, my colleagues. They start by dilating the cervix. They use procedures that soften so that they can eventually find a way to make an opening large enough to pull the baby through. They turn the baby so it is actually breeched opposite the way a baby would be born.

Often in that procedure they will wrap the baby with the cord, and sometimes the baby strangles. If not, they do deliver the baby in all cases. And right after the little feet come out and the little bottom and then they get the shoulders out, right before the head comes out, they hold the baby.

Now, talking to nurses, this is very difficult because the natural process is for the baby to come out and breathe. They hold the baby because they know if that little nose comes out and the mouth the baby will breathe. If the baby breathes, under the law, it is alive. But if the baby does not breathe, it is not considered a person. So this is what we are talking about. The average cost is $1,200 to $1,600. And it has become an industry.

Now, we have got some pretty interesting cases where women have gone and they have actually been hurt and died in partial birth abortions. But I want to talk about one, Louann Herron. And this is reported and it just came out, and it is very unfortunate because she was in the middle of a divorce.

She went to an abortion clinic, where they make a lot of money. In fact, a lot of times the doctors are not there, they have the procedure done by someone else. I think it is very important that we understand that this is not for the baby or the woman. I urge my colleagues to vote against the President.

Madam Speaker, I include the following articles for the RECORD:

[From the Arizona Republic, July 14, 1998]

PATIENT "DIDN'T HAVE TO DIE"

SHE WAS LEFT TO BLEED 3 HOURS AFTER ABORTION, EX-STAFFERS SAY

(By Heather Ratcliffe, Susie Steckner and Jodie Snyder

Louann Herron lay bleeding from a punctured uterus for more than three hours as a medical assistant at the A–Z Women's Center begged her supervisor to call 911, three former employees of the abortion clinic say.

By the time the supervisor paged Herron's doctor to get permission to call paramedics, it was too late.

Herron died hours after an abortion performed by Dr. John Biskind, the same doctor who delivered a full-term baby at the clinic June 30 after misdiagnosing the fetal age by 13 weeks. Biskind and center officials on Monday refused to comment on the case, which has prompted a police investigation.

Herron's encounter with A–Z Women's Center began in a similar fashion. But it became a saga of disappointment, deception and death, according to three former employees who told their stories to The Arizona Republic.

According to the former employees, Herron, 32, was in the process of being divorced when she visited the center April 7 with a friend for an abortion.

An employee—fairly new to the clinic—performed an ultrasound examination indicating that Herron was 23 weeks and a few days pregnant.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 1997.

Hon. RICK SANTORUM,
U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR SANTORUM: The American Medical Association (AMA) is writing to support HR 1122, "The Partial Birth Abortion Ban Act of 1997," as amended. Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated. HR 1122 now meets both those tests.

Our support of this legislation is based on three specific principles. First, the bill would allow a legitimate exception where the life of the mother was endangered, thereby preserving the physician's judgment to take any medically necessary steps to save the life of the mother. Second, the bill would clearly define the prohibited procedure so that it is clear on the face of the legislation what act is to be banned. Finally, the bill would give any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial commenced. In this manner, the bill would provide a formal role for valuable medical peer determination in any enforcement proceeding.

The AMA believes that with these changes, physicians will be on notice as to the exact nature of the prohibited conduct.

Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.

Sincerely,

P. JOHN. SEWARD, MD.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Madam Speaker, first of all, if we are going to take the AMA's word for this, then we ought to pass the Parker bill or the Patients' Bill of rights because the AMA endorses that. And if we are going to take Mr. Koop's word, then we ought to have a real tobacco bill in the House. But, obviously, the Republican majority wants to play fast and loose on whose advice they want to take and when they want to take it.

I do not think any of us support this particular procedure. But why do we not look at what 40 other states, including my State of Texas, are doing. I have heard a lot of my colleagues, most from the other side, for the last 4 years talk about how the States are the laboratories of government, where we ought to be seeing what they are doing. But I guess that is only when it is convenient or when the States agree with us; and otherwise, if they do not, we are going to tell them what to do. That is what this bill does. But worse, this bill is about politics.

Now, last week we had a vote on taking away abortion rights. Let me read what one of my colleagues said. "I want this to be a campaign issue. This is going to be great," he said, adding that his colleagues who oppose abortion restrictions will face fierce questions in their districts. "They better be prepared to defend themselves because

we are going to have the grassroots out there talking about it."

That is what this is about. It is not about the women who need the health services so they can bear more children. My good friend and colleague the gentleman from Texas (Mr. DELAY) said, "where is the common decency?"

Well, how is it for common decency when we tell a woman that she is going to lose the ability to bear more children if she cannot have a certain type of procedure? What is decent about that? Not a single thing. This is politics, pure and simple, and it is about as indecent as this House can get.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. CHRISTENSEN).

Mr. CHRISTENSEN. Madam Speaker, I thank the gentleman for yielding.

Yesterday I had the opportunity to manage the debate on the MFN Normal Trade Relations bill. A number of my pro-choice friends and colleagues over on this side were with me on that losing battle of 166 votes.

But a number of those same people that were crying out for human rights in China, fighting for the forced abortions in China, talking about the issues of the Chinese women, are now on the same side of allowing this partial birth abortion bill to go forth.

Well, what about the human rights in America? What about the human rights of the unborn children? What about the human rights of Baby Phoenix and the thousands and thousands of little children who are murdered each year? What about the human rights for those that have no say?

If we are going to stand with the Chinese women and the forced abortions, we should stand together to make sure that the children have a voice in this, the Baby Phoenixes of the world, the Baby Phoenixes of America.

Vote to override this partial birth abortion veto. Do what is right.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Madam Speaker, I thank my colleague for yielding.

Madam Speaker, I rise in opposition to reconsidering this bill, and I urge my colleagues to join me in sustaining the President's veto.

We all agree that healthy women with healthy fetuses should not have post-viability abortions. But the authors of this bill do nothing to address this issue. Instead by focusing on medical procedures, the Republican leadership's partial birth abortion ban fails to fully address abortions performed post-viability and overreaches by banning abortions pre-viability.

The Republican leadership has refused to bring up a bipartisan bill that accomplishes, in fact, what their bill only achieves in nasty rhetoric.

H.R. 1032, which was introduced by the gentleman from Maryland (Mr. HOYER) and the gentleman from Pennsylvania (Mr. GREENWOOD) at the beginning of the 105th session, would ban all late-term abortions unless it was necessary to save the life of the mother or to avert serious adverse health consequences.

Unfortunately, the House leadership has presented us with the singular option of voting on H.R. 1122, which is believed by many to be unconstitutional.

Despite the fact that a modified ban would pass in the House, despite the fact that the President has said that he would sign the modified ban, this body has not even been given the opportunity to consider the Hoyer-Greenwood bill.

The House leadership is clearly not interested in passing legislation that would set public policy on the issue of late-term abortion. Instead, they have tried to depict pro-choice Members as radical and out of step with the values of mainstream America.

Further, in this debate today, unfortunately, they have chosen to demonize women and to accuse doctors of medical malfeasance.

I and other supporters of the Hoyer-Greenwood bill are pro-choice and are willing to vote for a ban on late-term abortions provided that there are health and life exceptions.

If the House leadership truly wants to reduce the number of late-term abortions performed, they would bring H.R. 1032, the Hoyer-Greenwood bill, to the floor and allow the House to debate a bill that would actually accomplish something.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Madam Speaker, I rise in support of the motion to discharge, because we must override the President's veto of a ban on this horrendous practice of partial birth abortions.

It is an outrage that in this civilized modern society we still allow for this procedure to occur despite the mountain of evidence indicating that it is unnecessary and that it has, as the ultimate consequence of its completion, the killing of a partially delivered baby who cannot defend him or herself against the unscrupulous abortion industry.

It is important to remind our colleagues what this gruesome procedure involves. It consists of partially delivering the life baby's feet first, with only the head inside the mother's womb, and then stabbing the child at the base of the skull, a child that is already able to live outside the mother's womb.

The American Medical Association said about partial birth abortion, "the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians."

The AMA "could not find any identified circumstances in which the procedure was the only safe and effective abortion method."

Even abortion practitioners, like Martin Haskell, reported to the American Medical News, "most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent of partial birth abortions are performed for genetic reasons. And the other 80 percent are purely elective."

Madam Speaker, Americans cannot stand idly by while this tragic procedure is performed. Many doctors have stated that this horrid practice can severely damage a woman's health. And let us not forget, it kills an innocent human life.

Let us overturn the veto.

Mr. SCOTT. Madam Speaker, could you advise us as to the time remaining on both sides, please?

The SPEAKER pro tempore. The gentleman from Virginia (Mr. SCOTT) has 5½ minutes remaining, and the gentleman from Florida (Mr. CANADY) has 3½ minutes remaining.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding.

I rise today, my colleagues, not so much to speak on the veto override, although the bill in question, I believe sincerely, will not in fact stop any abortion. This is about a procedure, not about abortion. The issue should not be about a procedure. I want to make it clear, I am opposed to late-term abortions by any procedure.

I rise today to call Members' attention to legislation which has been referenced before that has as its intent stopping all late-term abortions by whatever procedure.

I asked the gentleman from Texas (Mr. DELAY) was there an alternative procedure he thought preferable. He would not answer that question. Nor will anybody on this floor. Not one. Because there is no alternative procedure that proponents believe is a preferable procedure.

□ 1130

The fact is I think most of us are against what the gentlewoman from Florida talked about, elective late-term abortions. I am absolutely opposed to that, unequivocally opposed to elective late-term abortions.

Do I make exceptions in my bill? Yes. As the gentleman from Texas intoned, for the life of the mother. There is not a Member, I think, on this floor who would not vote for that exception. Not one. Then, yes, we go on to say for serious adverse health consequences to the mother, a wrenching, difficult decision for a doctor and a patient to make.

But I am opposed and believe that any ethical doctor would oppose elective late-term abortions by whatever

procedure. And if they do not, the medical association ought to take them to task and our bill would impose a very significant penalty on so doing.

Whether this bill today passes or fails, I would ask the Committee on the Judiciary and ask the gentleman from Florida to report this bill to the floor. Let us debate. Let us go on record as 41 States in America have gone on record and say, we are opposed as public policy to late-term, elective abortions. Period. No ifs, ands or buts, no this procedure is not good but that procedure is okay. Not deal with procedures. Deal with substance. Deal with saying that we should not have these abortions late-term for elective reasons.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Madam Speaker, a minute is not nearly enough time to address the horrors of partial-birth abortion. But I trust that during the course of this debate the truth will come through and this body will do the right thing, the decent thing and vote to override the President's unconscionable veto of the partial-birth abortion ban. This ought to be simple. You should not kill babies.

Partial-birth abortion is infanticide. It is the termination of the life of a living baby just seconds before it takes its first breath outside the womb. The procedure is violent, it is gruesome, it is undeniably wrong. It is the killing of a baby as it is being born.

This morning's vote is among the most important we will ever make. It is one that will long be remembered. I would urge my colleagues to say "no" to the abortion President and "no" to the most militant leaders of the abortion lobby and vote to protect the lives of helpless, defenseless little babies.

Madam Speaker, let us vote today to defend those little babies who cannot defend themselves.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Madam Speaker, could I ask the gentleman from Ohio (Mr. CHABOT), if he does not like partial-birth, what will he be willing to accept to save the life of the mother if he does not like this measure?

Mr. CHABOT. Madam Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. CHABOT. Under the proposal we have——

Mr. CONYERS. Just answer me.

Mr. CHABOT. We would accept this procedure if the mother's life is at risk.

Mr. CONYERS. Oh, you do accept it?

Mr. CHABOT. I think everybody would accept when you have a balance between the mother's life and the child's life. That is not the issue.

Mr. CONYERS. Then why are you opposing this?

Mr. CHABOT. It is wrong to kill babies, as simple as that.

Mr. CONYERS. Just a moment. No lectures. Just answer the question. What about serious health risk, like sterility?

Mr. CHABOT. If the gentleman will yield further, I think the gentleman is aware of when you talk about health risk.

Mr. CONYERS. Just answer me.

Mr. CHABOT. If somebody feels bad about themselves, that is enough to allow the procedure.

Mr. CONYERS. What do you think about serious health risk, namely, fertility? What is the answer? I yield to the gentleman from Ohio.

Mr. CHABOT. Madam Speaker, I think the gentleman from Michigan is aware that if you allow an exception for health reasons, it can mean if a psychiatrist thinks that somebody is going to feel better about themselves.

Mr. CONYERS. We are talking about serious physical health. Yes or no.

Mr. CHABOT. That is not what your bill says. The bottom line is we are trying to save babies. You are always saying, Let us do this for the children, let us do that for the children. Let us pass this veto override to save the children. This will really save children.

Mr. CONYERS. What about all the other procedures that you allow that we are not doing this that we are doing to partial-birth? What about them?

Mr. CHABOT. The bottom line is the folks that are on our side here want to save kids. We want to save children.

Mr. CONYERS. I am talking about you.

Mr. CHABOT. While they are being born. I think we ought to join together and try to save those babies that would otherwise be born.

Mr. CONYERS. You are against protective procedure and all these other procedures. We will talk later about this.

Mr. CHABOT. I thank the gentleman for yielding.

Mr. CONYERS. It was a pleasure.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN. Madam Speaker, our civilized society must not allow President Clinton's preference for partial-birth abortions to continue. I not only speak for my fellow Kansans but also for the preborn children throughout this country whose lives are taken by this gruesome procedure.

Recently a doctor performing a partial-birth abortion realized in the middle of the procedure that he had misjudged the baby's age. She was actually only three weeks away from being in full term. Thankfully the doctor was able to stop the abortion and successfully deliver the baby. That is a happy ending.

However, the tragedy of partial-birth abortion is that any preborn baby in the third trimester has a good chance of survival. Only the abortionist's scalpel prevents that baby from having its first breath. Can we seriously allow a few inches to distinguish between a baby and a blob of tissue?

Members of Congress as well as the AMA have not found a single circumstance where partial-birth abortion was the only safe and effective abortion method. It is just not there.

The truth is this procedure poses a greater risk to the mother's health than a full-term delivery. For the health of women, for the lives of our children, and for the future of America, we must put an end to this ghastly procedure.

Mr. SCOTT. Madam Speaker, I yield myself the balance of my time. As has been pointed out in the debate, Madam Speaker, this bill will not stop any abortion. It will just require an alternative procedure to be used. We have had no answer to the question of what that alternative should be. What we should do is defeat the motion to discharge the committee from further consideration of the bill, require the Committee on the Judiciary to in fact consider the bill and the fact that it is unconstitutional and consider alternatives like the Hoyer-Greenwood bill that would prevent the maximum number of abortions consistent with the Supreme Court decisions. I would hope that we would defeat the motion and have the Committee on the Judiciary report a constitutional bill.

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. HALL).

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Ohio is recognized for 1½ minutes.

Mr. HALL of Ohio. Madam Speaker, I rise as an original cosponsor of this most important act, and I support this motion to override the President's veto.

Abortion, except to save the mother's life, is wrong. However, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Madam Speaker, we have heard the medical details of these abortions from others. I believe that a compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Many years ago, surgery was performed on newborns with the thought that they did not feel pain. Now, we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells. Pain

is inflicted to the fetus with this procedure.

Madam Speaker, I do not want to discuss this bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I could not stand here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on improving hunger conditions and trying to help children and their families achieve a just life after they are born.

Enough is enough. One thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this.

Please vote to override the President's veto.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. CANADY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, votes on the motion to instruct and on a motion to authorize closed meetings of conferees on the national defense authorization will be taken immediately following the 15-minute vote on the motion to discharge, and the vote on closing meetings will be conducted as a 5-minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 295, nays 131, not voting 8, as follows:

[Roll No. 321]

YEAS—295

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NAYS—131

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kennedy (MA)
Kennelly
Kilpatrick
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—8

Condit
Ford
Gonzalez
Green
Markey
Serrano
Smith (TX)
Young (FL)

□ 1202

Mr. BARRETT of Wisconsin changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HINCHEY. Madam Speaker, I inadvertently erred this morning when voting to discharge H.R. 1122 from the Judicary Committee. On rollcall No. 321, please let the record show that I meant to vote "no."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 716

Mr. FORBES. Madam Speaker I ask unanimous consent that my name be removed as a cosponsor of H.R. 716.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The SPEAKER pro tempore. The unfinished business is the vote on the motion to instruct conferees offered by the gentleman from Missouri (Mr. SKELTON).

The Clerk will rereport the motion.

The Clerk read as follows:

Mr. SKELTON moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the Senate amendment to the bill, H.R. 3616, be instructed to insist upon the authorization levels provided in title II of the House bill for Theater Missile Defense programs and for space-based lasers.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Missouri (Mr. SKELTON) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 424, nays 0, answered "present" 1, not voting 9, as follows:

[Roll No. 322]

YEAS—424

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

ANSWERED "PRESENT"—1

McKinney

NOT VOTING—9

Abercrombie
Ford
Gonzalez
Green
Leach
Markey
Murtha
Serrano
Young (FL)

□ 1221

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. COBLE. Madam Speaker, I offer a motion.

The SPEAKER pro tempore (Mrs. EMERSON). The Clerk will report the motion.

The Clerk read as follows:

Mr. SPENCE moves, pursuant to clause 6(a) of House Rule XXVIII, that conference committee meetings on the bill H.R. 3616 be closed to the public at such times as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. SPENCE).

On this motion, pursuant to clause 6 of rule XXVIII, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 412, nays 5, not voting 17, as follows:

[Roll No. 323]

YEAS—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther

Maloney (CT)	Payne	Slaughter
Maloney (NY)	Pease	Smith (MI)
Manton	Peterson (MN)	Smith (NJ)
Manzullo	Peterson (PA)	Smith (OR)
Martinez	Petri	Smith (TX)
Mascara	Pickering	Smith, Adam
Matsui	Pickett	Smith, Linda
McCarthy (MO)	Pitts	Snowbarger
McCarthy (NY)	Pombo	Snyder
McCollum	Pomeroy	Solomon
McCrery	Porter	Souder
McDade	Portman	Spence
McDermott	Poshard	Spratt
McGovern	Price (NC)	Stabenow
McHale	Pryce (OH)	Stearns
McHugh	Quinn	Stenholm
McInnis	Radanovich	Stokes
McIntosh	Rahall	Strickland
McIntyre	Ramstad	Stupak
McKeon	Rangel	Sununu
McKinney	Redmond	Talent
McNulty	Regula	Tanner
Meehan	Reyes	Tauscher
Meek (FL)	Riggs	Tauzin
Meeks (NY)	Riley	Taylor (MS)
Menendez	Rivers	Taylor (NC)
Metcalf	Rodriguez	Thomas
Mica	Roemer	Thompson
Millender-McDonald	Rogan	Thornberry
	Rogers	Thune
Miller (CA)	Rohrabacher	Thurman
Miller (FL)	Ros-Lehtinen	Tiahrt
Minge	Rothman	Tierney
Mink	Roukema	Torres
Moakley	Roybal-Allard	Towns
Mollohan	Royce	Traficant
Moran (KS)	Rush	Turner
Moran (VA)	Ryun	Upton
Morella	Sabo	Velazquez
Myrick	Salmon	Vento
Nadler	Sanchez	Visclosky
Neal	Sanders	Walsh
Nethercutt	Sandlin	Wamp
Neumann	Sawyer	Waters
Ney	Saxton	Watkins
Northup	Scarborough	Watt (NC)
Norwood	Schaefer, Dan	Watts (OK)
Nussle	Schaffer, Bob	Waxman
Oberstar	Schumer	Weldon (FL)
Obey	Scott	Weldon (PA)
Olver	Sensenbrenner	Weller
Ortiz	Sessions	Wexler
Owens	Shadegg	Weygand
Oxley	Shaw	White
Packard	Shays	Whitfield
Pallone	Sherman	Wicker
Pappas	Shimkus	Wilson
Parker	Shuster	Wise
Pascrell	Sisisky	Wolf
Pastor	Skaggs	Wynn
Paul	Skeen	Yates
Paxon	Skelton	Young (AK)

NAYS—5

Conyers	Furse	Woolsey
DeFazio	Stark	

NOT VOTING—17

Blunt	Green	Pelosi
Buyer	Hansen	Sanford
Cooksey	Hunter	Serrano
Fawell	Lazio	Stump
Ford	Markey	Young (FL)
Gonzalez	Murtha	

□ 1230

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3905

Mr. RAHALL. Madam Speaker, I ask unanimous consent to remove my name as cosponsor of the bill, H.R. 3905.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–158)

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

The question is, will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding.

The gentleman from Florida (Mr. CANADY) is recognized for 1 hour.

Mr. CANADY of Florida. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Virginia (Mr. SCOTT).

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

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

There was no objection.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, we now come before the House again on a subject that has been debated many times. The advantage that we have today is that the American public now knows this subject.

The American public knows that there is no truth in the statement that there is a need for this procedure at any time, at any place, in any way.

How do I know that? I have delivered well over 3,000 babies. I have handled every major known complication of pregnancy. This debate in the past has been about untruth. It has been about a desire to preserve an option of not fulfilling one's responsibility to a child. We have already heard today mischaracterizations and facts that do not exist. Those are called untruths about this procedure.

It is my hope that we can come together as a Nation and understand that partial-birth abortion is murder. Nothing short, nothing less. There is never an instance in which a woman would have to have a partial-birth abortion versus some other means of saving her life and caring for her infant. That is something that people should keep in mind as we debate this issue.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time.

Madam Speaker, I wish we could discuss this very serious issue with a bowl full of truth and not one of jelly beans.

When a woman is faced with this type of painful circumstance, it is one that she should face without government interference. Frankly, I think the American people do not want Democrats playing God, and the Republicans certainly should not play God.

This is a very serious issue, and if the Republican Majority was so concerned about the loss of lives of babies, when the President vetoed this legislation in October of 1997, we could have swiftly moved to committee and looked at opportunities in order to save the mother's life and to protect the mother's health.

But, Madam Speaker, it is July 1998, just a few months from election, and they wish to play with the lives of women. We have 200 million citizens, over 51 percent of them women. I would imagine that 3,000 babies pale to how many babies have been delivered.

Madam Speaker, as a mother, I love children and I want to see the wonderful birth of children continue and the loving families to nurture them. But how many have listened to the pain that I have listened to? We have had women come and testify saying that they wanted nothing more than to have a healthy baby and to have an opportunity to give birth in years to come. Their doctor insisted, because of the health and the life of the mother to be able to be viable for birth again, that this procedure was a necessary procedure.

Yet, the Republicans want to tell us that they override the President's veto today so they can stand on the right side of the issue. This legislation will deny the physician, the woman's God, and her family to determine any type of procedure. No procedure will be allowed.

Let me tell my colleagues the bare facts. Last year 19 States banned so-called partial-birth abortion. Seventeen were challenged and the challenge was upheld. Those bans are no longer because reasonable people realize this is not something mothers go lightly into.

I saw the pain in these women's faces. I saw the desire to be mothers and to nurture. I saw the loss of fathers who wanted to be able to have a child.

Madam Speaker, I simply say to the Republicans, this is no time to play any games. When we have a child with fatal abnormalities, if my colleagues have ever looked at that living thing and saw that it could not live at all, that is a painful and wrenching decision that is required to be made again by our Heavenly Father, of whom we believe in, and the physician, and the family.

So I would ask that this override not take place, because I stand with those

who want life and the opportunity for life.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, I just want to clarify three misstatements of fact that were just made. Number one, the ban on partial-birth abortion never puts a woman's fertility at risk. That is number one.

Number two, this bill does allow in the instance of the life of a mother, if it is at risk, a partial-birth abortion to be done. We do not think that is ever the case, and I know that as a physician never to be the case, but we allow that under the law.

Finally, if a child has a terminal defect, what could be better than having it be born and loved rather than killing it?

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Madam Speaker, there is only one question that the people of America need to ask themselves in this debate. Only one. That is: "Do you want a physician in your doctor's office making this decision with you, or do you want a politician?"

Madam Speaker, I am not a physician. I am a politician. I will not make this decision for the women and families of this country, and no other politician should make that decision for them.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Madam Speaker, I am a mother myself and married to a physician. There is very little that any of the previous speakers can tell me about abortions and about pregnancies and about life that I do not already know.

One thing I do know is our Constitution guarantees us the right to life, liberty, and the pursuit of happiness. The most fundamental of those things is life.

In our State laws in many States, the sanctity of unborn life is already regarded as a right. Let me tell my colleagues how. Criminally, if a woman is assaulted and loses her child, the person who assaulted her can be charged with manslaughter, can be charged with murder. Even if the mother survives, that child, that unborn child, has a right to live.

If someone negligently kills the father of an unborn child, the mother or a guardian can sue on behalf of that unborn child for negligence. So in the civil courts, we recognize that unborn children have a right to live.

And to think of delivering a child up to its head and then removing the brain from that child that is viable and that can live out of the womb. There is a home in America where that child could be loved and wanted. To deliver a child that could live and kill it is absolutely a mortal sin. It is a legal wrong. It is against everything that we stand for in this country.

Madam Speaker, I urge my colleagues to vote to override the President's veto.

Mr. SCOTT. Madam Speaker, I yield myself 15 seconds.

Madam Speaker, I want to place in the RECORD the words of the American College of Obstetricians and Gynecologists, who said that the intact D&E may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only a doctor in consultation with the patient should make that decision.

Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Madam Speaker, what I have heard thus far, it seems as though we are trying to make the victims of a tragic situation the culprits. For as a man, as a husband, as a father, and as having the opportunity of talking to many of the women that had to undergo this tragic circumstance, one would think that from the other side that these women went through this willingly and they went through this as a mechanism to get rid of a child.

They went through it because of no other alternative, because of serious health results that would have happened had they delivered this child, or because of bad chromosomes, malfunctions with reference to a child.

I dare say that most, not most, 95 percent of the women that have to undergo this unfortunate circumstance, this never leaves them. How do I know? Just look at a woman who may have lost a child, for she wanted to have that child, and I can just testify to the fact that just a few months ago, my wife and I lost a child and my wife had to undergo a special procedure for her health to get the child out of the womb.

My wife still has not recovered from that, for she had no other alternative because the doctor said that if the fetus stayed in any longer, she could have some serious health ramifications.

So this is not a procedure that one does out of convenience, this is what one does out of kindness, out of respect for this woman. Without her, I would be nothing and there would be no chance to have another child.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, let us clarify for the American public, the vast majority of all partial birth abortions that have been performed in this country have been for the elective termination of a late pregnancy, not associated with fetal malformations, not associated with a malformation or an inconsequence of reproduction, but associated with elective termination of viable children.

Mr. SCOTT. Madam Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Madam Speaker, this is a hard issue for many, but I urge all of us to keep several things in mind. First, Roe versus Wade sets up a careful framework: Abortions in the third trimester of pregnancy are strictly limited.

No one here is talking about changing or expanding that framework.

Second, late-term abortions are tragic. We are talking about wanted pregnancies that go terribly wrong.

Third, as our colleague, the gentlewoman from Oregon (Ms. FURSE) said, doctors, not Congress, should choose the procedure to be used in the tragic event that a late-term abortion is necessary.

Fourth, in my view, the President showed great courage in vetoing that bill and I think we should uphold his veto because, as the mother of four wanted children, the product of fortunately healthy pregnancies, I would have wanted the choice in the event that I learned late in my pregnancy that my fetus was so grossly deformed that it would not live beyond a few hours after birth, even if that, and that my reproductive health was at risk. I would have wanted that choice, and I do want that choice, under constitutional guarantees, for every woman in this country.

Mr. CANADY of Florida. Madam Speaker, I yield one minute to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Madam Speaker, I rise in strong support of overriding the President's veto of partial birth abortion. We could talk about the abstract issue but we have a very narrow piece of legislation here that prevents the art and the notion of partial birth abortion, which is, for the sake of argument, almost delivering a child to birth and killing it.

We are not talking about a piece of chalk or a chair or a clock. We are talking about an innocent young child, a child that will never experience the joy of life, the power of laughter, all great accomplishments that any parent would want in a child.

Is it not amazing that in this country, where double parking your car or jaywalking is against the law that we can allow unfettered a partial delivery of a baby and killing it?

Madam Speaker, I urge every Member of Congress and every American to explore their conscience and override the President's veto.

□ 1245

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Madam Speaker, there truly is no rest for the weary, and I tell my colleagues the women of this country are weary. They are just plain tired of the constant stream of attacks on their health decisions launched by the Republican leadership in this House. Today's assault on women is an especially dangerous attack because it is part of a bigger conspiracy which puts politics first and women's health last.

I rise in opposition today, Madam Speaker, because this veto override is dangerous. It does not safeguard the health of women in this country, and that is what this bill should be about, not about whether the government or Members of Congress are allowed to poke their nose into the middle of decisions best made between a woman, her family, and her doctor.

First, my colleagues, the gentleman from Oklahoma (Mr. COBURN), tells us late-term abortion is never necessary. Then, after hearing the compelling story of our colleague, the gentleman from New York (Mr. MEEKS), he tells us that it is sometimes necessary. It is that "sometimes" that makes it the reason that the American College of Obstetricians and Gynecologists, the American Nurses Association, and the American Medical Women's Association are strongly opposed to this legislation. It is because sometimes that is the right decision to be made between the mother, the family, and their doctor.

It continues to amaze me, Madam Speaker, that Members of this House have so little faith in women, the very people who bear and raise the children of this country, that they would deny them access to life-saving procedures out of an outrageous notion that pregnant women would elect to abort a child in the late term of that pregnancy.

Mr. GOODLATTE. Madam Speaker, I yield 45 seconds to the gentleman from Oklahoma (Mr. COBURN) to respond.

Mr. COBURN. Madam Speaker, what we are talking about is infanticide. We have seen the debate as something other than that. There is nothing in this bill that denies any woman access to quality care or life-threatening care or reproductive care. I understand that is the debate we are using to say that we believe any baby at any time ought to be able to be terminated. But there is no difference between this procedure and infanticide.

As to the question of Roe versus Wade, the Supreme Court said they did not know when life began. Well, the fact is, as we determine death in this country as an absence of brain waves and an absence of heartbeat, and at 41 days post last menstrual period, every fetus, female and male, have a heartbeat and a brain wave.

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. If the gentleman from Oklahoma would answer a question, I would appreciate it.

My question is does the gentleman consider the story that the gentleman from New York (Mr. MEEKS) was telling us about his wife and his lost baby infanticide?

Mr. COBURN. Madam Speaker, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentleman from Oklahoma.

Mr. COBURN. No, I did not say that. I said the partial-birth procedure is a question of infanticide. There are lots of mistakes of reproduction. Never is it necessary to use the partial-birth abortion method to solve that problem.

Mr. GOODLATTE. Madam Speaker, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Madam Speaker, I thank the gentleman for yielding me this time.

The question today before us is not only the question of life or death for thousands of partially born children in our country, but it is also a question of who we are as a people.

What kind of people are we? What kind of people are we when we are so unwilling to defend the smallest, most helpless and vulnerable among us? Partial-birth abortion is a sick, gruesome procedure. It is a violation of the most basic of human rights. It is a violation of the right to the gift of life.

We shudder when we see brutality in warring nations, we shudder when he hear stories of genocide and ethnic cleansing, we shudder when we see pain and torture and death around the world. But do we shudder when we consider the reality of partial-birth abortion? Do we shudder to think that here in the United States this is a legal procedure?

The President has acted out of a cold disregard for human life. His veto is a shameful act and it is unacceptable.

Mr. SCOTT. Madam Speaker, I yield 3½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Speaker, I rise to oppose this attack on the fundamental rights of American women. Members of this House have tried time and again to limit the right to choose. They have imposed restrictions on Federal employees, on those who receive Medicaid, on women in the military, on women in prison, and on women under the age of 18. But they do not stop there. We saw last week their efforts to limit access even to birth control. We even saw them argue that the birth control pill is a form of abortion.

Their agenda is quite clear. Despite the fact that the Supreme Court has upheld the fundamental right of choice, it is their stated agenda not only to outlaw abortions by any means, but to limit access to birth control for millions of American women. That is why this vote today is so critical. It is an attempt to subvert the rulings of the Supreme Court and to implement phase I of their plan to eliminate the right to choice and to the availability of contraceptives.

When we debated this bill a year ago we argued that it was unconstitutional and could not be enforced. Time has proven us right. In 17 States courts have enjoined so-called partial-birth abortion bans as unconstitutional because they are vague, they fail to provide physicians adequate notice as to what is prohibited, they provide no exception whatsoever to preserve a woman's health, and only a dangerously inadequate exception to preserve a woman's life. Six of these unconstitutional State laws have virtually identical language to the bill before us today.

The bill is fundamentally flawed for another reason. It is based on the principle that politicians, not doctors, ought to make medical judgments about what procedures are appropriate. I would urge every pro-choice Member who may be inclined to vote for this bill to carefully consider exactly why they are pro choice.

If Members are pro choice because they believe it is a woman's decision, not the government's, about whether or not to have an abortion, then they should vote against this bill. If my colleagues believe that sometimes abortions are necessary to protect the health or life of a woman, then they should vote against this bill. If they believe that doctors should not be denied the option of using a medical procedure as they deem appropriate, then they must reject this bill. If they believe in the fundamental principles of Roe v. Wade, they must not support this bill, which severely restricts a woman's rights to choose.

Make no mistake, this bill is not about one particular procedure, it is about the fundamental right to choice. I urge my colleagues to defend a woman's right to choose and to reject this dangerous bill.

Let me close by quoting a letter of a woman from New York City who faced a tragic situation involving a fetus with a severely deformed heart and who would have been affected by this bill had it already become law. She writes, and I quote,

> You must hear our voices before you vote on this misguided bill, as well as the voices of other mothers and fathers who weep over their empty cribs. We are not bad people. We are extremely unfortunate, suffering families trying to cope with personal tragedies. Please don't deepen our wounds by taking away our choices. Please vote against H.R. 1122.

It could not be said better. Who are we to tell women in such tragic situations what to do? Women should make these choices, not politicians.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE), a member of the Committee on the Judiciary.

Mr. GOODLATTE. Madam Speaker, every year this heinous procedure is performed thousands of times on healthy babies with healthy mothers, usually in the 5th and 6th months of pregnancy. For these tiny children, the difference between a painful death and full protection of the law is literally four inches. Four inches; the difference between death and life.

Congress has expressed the will of the overwhelming number of Americans who want to outlaw this inhumane procedure. The people have spoken, but the President has refused to listen. He has ignored the conscience of the American people, who plainly see that this is nothing more than a painful, cruel and unnecessary act.

Madam Speaker, this is the people's body. Although the President will not listen to the American people, we will. I urge my colleagues to override the President's shameful veto.

Mr. SCOTT. Madam Speaker, I yield ??½ minute to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Madam Speaker, I thank gentleman from Virginia for yielding me this time.

I have been sitting here listening to this, and then I know tomorrow that I have to take some votes on managed care because we are very concerned about insurance companies who are going to and have been making decisions on people's health care.

Today, the question that I have to ask, and which just really bothers me, is today my colleagues want me to vote to allow Congress to make a decision on my medical care and not a doctor. But tomorrow they are going to tell me that a doctor should be making my decision and not the insurance company. Somewhere something is wrong in this place.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Speaker, abortion is the most violent form of death known to mankind. It is violence against children and it is violence against women. When will liberals begin to truly seek protection for American women?

Listen to this statement by Dr. Camilla Hersh, member of the Physicians' Ad Hoc Coalition for Truth, which details the violence of a partial-birth abortion.

Consider the grave danger involved in a partial-birth abortion. A woman's cervix is forcibly dilated over several days. This risks creating an incompetent cervix, a leading cause of subsequent premature delivery. It also risks serious infection, a major cause for subsequent infertility. Partial-birth abortion is a partially blind procedure, done by feel, thereby risking scissor injury to the mother's uterus and laceration of the cervix or lower uterine segment. Either the scissors or bony shards of the baby's perforated and disrupted skull bones can roughly rip into the large blood vessels which supply the lower part of the lush pregnant uterus, resulting in immediate and massive bleeding.

Let us stop kidding ourselves. Partial-birth abortion is violence. Let us override the President's veto.

□ 1300

Mr. SCOTT. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I have joined several of my colleagues in supporting a bill that will actually prohibit all late-term abortions, consistent with the Constitution. We have heard that bill described. It is consistent with the law. And if we want to prohibit as many abortions as possible, we ought to consider that bill.

We have heard suggestions that some physicians think that the partial birth abortion ban is appropriate. Other physicians think that it ought to be an option for physicians. That decision ought to be left to the physicians.

This bill will not prohibit any abortions. It will just relegate some women to procedures which their physician thinks may kill, maim, or sterilize them. And that is why this bill ought to be opposed.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, the statement that this will not eliminate any abortions is not a correct statement. The vast majority of partial birth abortions are elective abortions. Elective. That means somebody who is pregnant who does not want to be pregnant. It has nothing to do with the quality of life of the child. It has to do with the choice to kill a baby at any stage. So this is about eliminating abortions in this method.

Number two, end this procedure. Everyone who practices medicine realizes this is a terrible procedure. This is not medicine. This is death.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to my colleague, the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Speaker, I rise in support of the veto override.

I would like to address an issue that has been brought up repeatedly by the other side that most of these partial birth abortions, or a substantial portion of them, are done for medical necessity.

There has only been one study published on this procedure. It was the original report that appeared in the American Medical News by the originators of this grisly procedure, Drs. Haskell and McMann; and they described about 100 cases. Eighty-five percent were purely elective abortions.

So these were elective terminations of pregnancy of a healthy infant. So they are killing a healthy infant this way. Of the 15 percent that were for medical defects, the majority of them were for cleft palate and cleft lip. So to come here and to propose this disingenuous canard that we need this procedure in the face of those kinds of facts to me is totally unacceptable.

I encourage all of my colleagues to vote in support of this veto override.

Mr. SCOTT. Madam Speaker, I yield myself 30 seconds.

Will the gentleman from Florida (Mr. WELDON) respond to a question? If we cannot use this procedure, what procedure would be used?

Mr. WELDON of Florida. Madam Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Florida.

Mr. WELDON of Florida. The alternative procedures, in my opinion, are just as gruesome and grisly. And I have actually seen some of them.

In my opinion, late terminations of pregnancy should be illegal. The bill which the gentleman is talking about I am sure includes the provision that all liberals who are pro-abortion want, which is a provision to protect the health of the mother. And that has been defined to include mental health. And the vast majority of women who want to get an abortion claim it for that reason, it is for their mental health that they want to terminate an unborn baby.

Mr. SCOTT. Madam Speaker, I yield myself an additional 30 seconds.

Madam Speaker, I would say the provision in the Hoyer-Greenwood bill that allows an exception for the health of the mother is there because the Supreme Court says it has to be there. Otherwise, the bill is unconstitutional.

If we pass a bill without that provision, it will be thrown out, just like most of the similar bills that have been passed by states have been thrown out.

Mr. WELDON of Florida. Madam Speaker, if the gentleman would continue to yield, I disagree, as do many people in the United States, with the decision of the Supreme Court on this issue.

Mr. SCOTT. Madam Speaker, I yield myself 10 additional seconds.

That is why the bill is unconstitutional. My colleague just disagrees with the constitutional interpretation of the Supreme Court. We are going to pass an unconstitutional bill.

Mr. CANADY of Florida. Madam Speaker, I yield myself 15 seconds to respond on this constitutional issue.

The Supreme Court, in Roe versus Wade, with which I disagree, talked about the status of the unborn child. In this bill, we are dealing with the status of a partially delivered child, and that is a matter that is entirely different. It is excluded from the scope of Roe versus Wade.

Madam Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, I understand and respect those who disagree with my opinion on this procedure. They have my respect. I disagree

with them. But I wanted to describe an alternative to this. There is not a fetal malformation that this is required for. ACOG says that. Their words are "may." It is not "must."

I want to tell my colleagues about patients that I have delivered who have had these tremendous malformations of their children. And I want my colleagues to decide, is it easier to kill a baby four-fifths of the way out of the mother and lie to her about the real consequences of the procedure, or is it better to encourage her to carry her baby to term even though it is not going to live and give her the opportunity and the husband, the mother and her husband and the father, an opportunity to hold and to love and to care for part of us?

I want to tell my colleagues about Jakey. Jakey had a courageous mom and dad. Jakey was a patient of mine. Jakey did not have all of his brain. His mother and father could have chosen to go to Kansas or lots of other places and have a termination. But what they chose was life. Maybe a very short life, but they chose life.

They chose 4½ hours of life for Jakey. They chose 4½ hours where they could hold what God had given them and say, we will deal with this. We will not run away from it. We will not put it out as a convenience. We will deal with the fact that life sometimes brings us things other than perfect and we will face that.

Partial birth abortion, whether it is for an elective procedure or for a fetal malformation, ducks the very value of life that all of us, whether we are pro-choice or pro-life, know we have to have as a society that is going to continue.

And to deny the truth, and that is what this whole argument is about, the truth that we can do it some other way that serves us as a human race in a much far better way that teaches our children to value life rather than to throw life away, we do a disservice to our Constitution, we do a disservice to the human race.

That is what I would ask my colleagues to think about. They may not be the most convenient ways to handle the problem. They may not be the fastest ways to solve the problem. But they are by far the best way to solve the problem.

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. There is not much quarrel that we can have with anyone who advocates life. There is not a mother on the floor of the House or human being who would advocate against life.

What the doctor fails to realize is that what we are arguing for is the right of the woman, with her special relationship, her God, and her medical professional to make the decision.

It is interesting that we would discuss life in this context, when many of those who stand on the floor of the House would support the death penalty. We have to be consistent in life.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Madam Speaker, I know many have heard about the news and it will be or has been discussed today about the abortionist in Arizona who delivered the little girl and later discovered that he had misguessed the child's age. And rather than 23 gestational weeks old, the little girl had reached the age of about 36 weeks on June 30, when her 17-year-old mother subjected herself and her baby to a planned partial birth abortion at an AZ Women's Center in Phoenix.

This is not the first time this abortionist had this happen to him. He is currently being sued because one of his patients bled to death following an abortion in 1996. But the story of this latest mishap, which came to light just this past week and received wide coverage across the country, is just one more reason why we need to ban this procedure, which is a cruel form of infanticide, pure and simple.

Abortionists across the country knowingly commit partial birth abortions on babies as young as 20 gestational weeks, and they will continue to kill these babies and endanger the lives if we do not act today to override President Clinton's veto of the Partial Birth Abortion Act.

A baby delivered prematurely between 23 and 24 weeks would have a one-in-three chance of survival in a neonatal unit if delivered under normal circumstances and certainly would not feel the excruciating pain of a partial birth abortion.

So the question we will vote on today is quite simply whether we oppose allowing a fetus to suffer excruciating pain or whether we support life.

I am proud to stand here today with those who oppose infanticide and support life.

Mr. CANADY of Florida. Madam Speaker, may I inquire of the Chair concerning the amount of time remaining?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Florida (Mr. CANADY) has 15 minutes remaining, and the gentleman have Virginia (Mr. SCOTT) has 14 minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I reserve the balance of my time for the purpose of closing.

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

Madam Speaker, the gentleman from Oklahoma (Mr. COBURN) suggested that we disagree with his decision. I do not agree or disagree with his decision. What I disagree with is Congress making the medical decision.

This bill will not prohibit a single abortion. There will be alternatives which were not described other than they are just as gruesome as this, and those alternatives would be used.

The bill, without the health exception, puts us in a situation where we will either allow the woman, if the bill does not pass, might have a choice of having a procedure that will not sterilize her by using this procedure. If this bill passes, the only alternative may require her sterilization. I do not think we ought to be making that choice for her that one procedure is more preferable than the one that might sterilize her.

Finally, Madam Speaker, this bill is unconstitutional, and everybody knows it. People have indicated they disagree with Roe v. Wade. The bill is unconstitutional. If we want to prohibit late-term abortions, we ought to pass the Hoyer-Greenwood bill.

Madam Speaker, I yield the balance of my time to the gentlewoman from New York (Mrs. LOWEY).

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. LOWEY) is recognized for 13 minutes.

Mrs. LOWEY. Madam Speaker, I thank the gentleman for yielding.

I rise in strong opposition to the bill. Because this legislation, my colleagues, puts the lives and health of women at risk and it tramples on the constitutional right of every woman in this Nation.

Unfortunately, the GOP leadership has been waging war on abortion rights since taking over this House in 1994. This is the 93rd vote on reproductive rights in less than 4 years. 93 times. The goal is clear, ban every abortion procedure by procedure, month after month.

Madam Speaker, we have a different vision.

Mr. SCOTT. Madam Speaker, will the gentlewoman suspend for just a minute?

I understand that, prior to the close, they will ask for a Call of the House; and I think it would be appropriate for both closing speakers to be heard, and at this time I would suspend for the motion.

CALL OF THE HOUSE

Mr. CANADY of Florida. Madam Speaker, I move a call of the House.

The SPEAKER pro tempore. Does the gentlewoman from New York (Mrs. LOWEY) yield for that purpose?

Mrs. LOWEY. Madam Speaker, I yield for that purpose.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 324]

Abercrombie	Archer	Ballenger
Ackerman	Armey	Barcia
Aderholt	Bachus	Barr
Allen	Baker	Barrett (NE)
Andrews	Baldacci	Barrett (WI)

Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fazio
Filner
Foley
Forbes
Fossella
Fox
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

□ 1335

The SPEAKER pro tempore (Mrs. EMERSON). On this rollcall, 400 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–158)

Mr. SCOTT. Madam Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Madam Speaker, I rise against the bill.

Madam Speaker I rise against this bill.

This is the first time that Congress has attempted to criminalize a medical procedure—a rare procedure used to save a woman's life and save her reproductive future.

That's what it was for Kim Koster, who lives in Iowa. In November 1996, she became pregnant. In February, she faced heartbreaking news: Their baby had anencephaly—no brain. Kim says, "our world came crashing down around us." Thankfully, the D and E procedure was available, and Kim's fertility remained intact.

In March of this year, Kim became pregnant, and just last week, she learned that—again—she has another baby with no brain. Nineteen states, including Iowa, have blocked these state laws, ruling that they are unconstitutional, vague, and overly broad. Thankfully, Kim was able to have the abortion she needed.

Unfortunately, this federal bill prevents women like Kim Koster from receiving necessary, safe medical care in rare cases when a much wanted pregnancy has gone tragically wrong. When a woman seeks medical care, she wants the best care her doctor can provide.

Congress has no place in their decisions. And Congress has no place politicizing family tragedies. Apparently, the supporters of this bill feel it is more important to save a doomed fetus than the life of the mother and her ability to have children in the future.

I urge a "no" vote on this override vote.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. LOWEY) has 12 minutes remaining.

Mrs. LOWEY. Madam Speaker, I thank the gentleman for yielding to me.

Madam Speaker, I rise in strong opposition to this bill. This legislation puts the lives and health of women at risk, and it tramples on the constitutional rights of every woman in this Nation.

The GOP leadership, unfortunately, has been waging war on abortion rights since taking over this House in 1994. This is the 93rd vote on reproductive rights in less than 4 years; 93 times. The goal is clear: ban every abortion procedure by procedure, month by month.

Madam Speaker, we have a different vision. We want to reduce the number of abortions, not by making them illegal, but by empowering women to make healthy choices about their own reproductive health care.

Last week, we had a crucial vote in this House on a measure that will help reduce the number of abortions in the United States. That initiative will ensure that Federal employee health plans cover prescription contraceptives. It passed because the American people are tired of these polarizing debates. They want common sense solutions to preventing unintended pregnancy and reducing the number of abortions. Increased access to contraceptive coverage is one such approach; the bill before us, frankly, is not.

My good friend, the gentleman from Florida (Mr. CANADY), and we have worked together on many issues. However, my contraceptive coverage amendment, in my judgment, will prevent more abortions in a week than this bill ever will. It will do so by improving women's health, not by endangering it.

I am only sorry that the gentleman from Florida could not join us last week in supporting contraceptive coverage because that is the way that we will really reduce unintended pregnancies and prevent abortions.

So let us work together. Let us reduce the number of abortions. But, instead, we are, once again, considering this divisive issue. In fact, this is the sixth time this bill has come before the House. Each of those times, we tried to offer an amendment to the bill to protect the health of the mother, and each time the Republican leadership blocked us. We offered to sit down with the Republican leadership, craft a health exception that we could all accept. The Republican leadership refused.

The President will sign this bill if it protects the health of the mother, but the Republican leadership will not even give us a chance to make this change. Let me repeat, the President will sign this bill if it contains an exception to protect the health of the mother, but the GOP leadership refuses to put one in. So the Republicans, unfortunately, would rather debate this issue again and again and again rather than send the President a bill that he could sign.

Madam Speaker, this bill is not about reducing abortions. It is about defeating Democrats. This is election-year politics, plain and simple. But do not take my word for it. Leading GOP strategist Ralph Reed called this "a winning gold-plated issue." A winning gold-plated issue. Is that not unfortunate that that is why we are here today.

I heard reference in the debate before to liberals. In fact, two of my colleagues, my good friends, refer to people who oppose this ban as liberals. I just want to tell my colleagues, as a woman, that when you are there making this very difficult decision, and we have seen these women come to my offices to discuss the decision that they had to make to preserve their future fertility, they were not making this decision with their family, with their physician, with the member of their clergy, as a Democrat, as a Republican, as a conservative or a liberal. They were making this decision as a woman in distress who had to make a very, very difficult decision.

I think it is time for us to stop playing politics with the lives and health of American women. We must ensure that women have access to abortion if their lives and health are endangered.

So I ask my colleagues on the other side of the aisle, whose health would you sacrifice? Which one of us? Which of our daughters is expendable? The health of every woman in this Nation is precious. Each of us, mothers, wives, daughters, is irreplaceable.

Women like Tammy Watts, Claudia Addes, Maureen Britel, these women testified before Congress that this procedure protected their lives and health. These women desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. How demeaning to a woman to even consider that that is an option. They did not abort because their prom dresses did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

So who in this chamber will stand in the operating room and limit their options? Who, at this agonizing moment, will decide? Who will make that difficult decision, the Congress of the United States or the woman, families, physicians, and members of the clergy of America?

□ 1345

The courts have been very clear on this point. Bans like this one have been passed in 28 states. Court challenges have been initiated in 20. In 18 state courts, there have been partially or fully enjoined bans on constitutional grounds. The courts have found that these laws ban most safe and common abortion procedures used throughout pregnancy. Courts have found that the bans are vague, they fail to protect the health of the mother and they are unconstitutional. The legislation before us is also clearly unconstitutional.

I want to conclude by stating that we believe strongly in the right to choose, but we also recognize that rights confer responsibilities as well. No woman terminates a pregnancy casually. No woman makes this decision lightly.

Madam Speaker, we have to trust the women of America to exercise this right thoughtfully, deliberately, judiciously, and we must empower them to do so responsibly. We must trust the women of America, not the government. We have to trust the women of America to make this very, very personal choice.

Madam Speaker, I urge my colleagues to say no. Put your faith in the women of America, not in this Congress, to make this very, very personal decision.

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

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. HYDE), Chairman of the Committee on the Judiciary.

The SPEAKER pro tempore. The gentleman from Illinois is recognized for 15 minutes.

Mr. HYDE. Madam Speaker, first of all, I want to thank the chairman for allocating so much time to me. I hope and pray I do not use it all. I know I express the feelings of everyone in the chamber that I do not use it all.

I also want to say at the outset that I will not yield, and I would appreciate the courtesy of not being interrupted, because I do not choose to yield.

I also want to briefly respond to my good friend, the gentlewoman from New York (Mrs. LOWEY). I do not know any one I admire more than she. This is a soul-wrenching issue. Your passion, your commitment, is respected on my side, and certainly by me, and all I ask is that you respect our passion and our commitment, because people of goodwill can be on both sides of this issue.

That is the wonder and the beauty of this debate, that we are here today talking about the most fundamental issues, life and death, health versus a life. That is the problem. You are trading apples and oranges, or chickens and horses. A life and health.

To me if you put those on the scale, life weighs heavier. Health has been defined by the Supreme Court almost amorphously. It is a state of well-being. Roe v. Wade and the other case, Doe v. Bolton, they defined health for us in the most poetic way, a state of well-being.

So the problem is, if health is an exception and the abortionist defines what is an impairment of health, I would suggest that the little unborn ought to have an Independent Counsel, because there is a conflict of interest there between the abortionist finding that a woman's health will be impaired. So it is not a simple question.

Demeaning to women? Over half the children that are aborted are women. I do not want to demean women; my God, no. I was married for 45 years. I have had a mother, a sister, a daughter. I never would want to demean women. But I do not want to trivialize the unborn either.

Now, I go through life trying to offend as few people as possible, and I do not always succeed. I may offend some people today, because I want to talk about slavery. I am keenly aware that there are some people who resent bitterly any discussion of slavery or the Holocaust, emphasizing the uniqueness, the singularity of those two realities that are part of our human history, and saying that nothing can compare to them in evil, and I agree.

I think slavery is absolutely unique in its horror and in its evil, and I think the Holocaust similarly is unique. But there are lessons to be learned. History is nothing if it does not teach us something. I analogize, I do not compare; I look for the common thread in slavery, the Holocaust and abortion, and, to me, the common thread is dehumanizing people. I intend to make that point, because I think we have to learn from history, so that at least in this context, past will not be prologue.

So I would like to tell you about a recent movie I saw called Amistad, named after a Spanish sailing ship used in the African slave trade in 1839, where some 39 survivors of the mutiny find themselves in a legal battle before the United States Supreme Court. It is based on a true story, and they are represented by an elderly, infirm John Quincy Adams, played magnificently by Anthony Hopkins.

Adams' summation to the Supreme Court struck me as remarkably appropriate to the issue before us today. Adams tells the justices that this is the most important case ever to come before the court because it concerns the very nature of man. Of course, that was the central issue in debating the legitimacy, the morality of slavery, namely, the humanity of the slave. Is the slave a chattel, mere property, to be bought and sold? Or is he or she a human being with human rights?

We here today make the same argument, that that little, almost-born baby, whose tiny arms and legs are

flailing, whose little chest harbors a beating heart, is a human being, with human rights, even if his or her human life can be snuffed out by the plunge of the abortionist's surgical scissors into the back of her tiny neck.

Yes, partial birth abortion concerns the very nature of man.

Later Adams stands near a framed copy of the Declaration of Independence and he asks the question that we who support preborn life have been asking for years. Looking at the Declaration, he says, "What of this annoying document? This Declaration of Independence? What of its conceits, all men created equal, inalienable rights, life, liberty and so on. What on earth are we to do with this?"

He then says he has a modest suggestion, and he takes a copy of the Declaration and tears it up.

A tall, impressive man, Cinque, exuding strength, is the leader of the slaves, and he has told John Quincy Adams that in his tribe in Sierra Leone, the Mende, when they encounter a hopeless situation, they call on their ancestors.

Adams tells the court this belief, that if they summon the spirits of their ancestors, their wisdom and strength will come to their aid. He then points to Cinque and speaks of his ancestors, from the beginning of time, and tells the court that this man, Cinque, is the whole reason his ancestors have ever existed at all.

When you think about it, each of us has ancestors that go back to the beginning of time, and we, here now, are the whole reason they ever existed. We are their progeny, we are their culmination. And just think of what our ancestors had to endure through the long and bloody centuries, the Four Horsemen of the Apocalypse, conquest, slaughter, famine and death, wars and plagues, natural disasters. And they survived it all, so that we might be born here and now, to debate the issue of partial-birth abortion.

So we have this little infant, arms flailing, legs squirming, little heart pounding away, and, with the plunge of the abortionist's surgical scissors, in a painful and cruel instant, that ancestral odyssey through the centuries is extinguished.

Think of Whittier's great lines:

Of all the sad words of tongue or pen,
The saddest are these;
"It might have been."

Loneliness. We all know something about loneliness. It is one of life's most mournful experiences. We have all been lonely, and it teaches us how much we humans need each other.

What a special loneliness it must be for that little almost-born baby to be surrounded by people who want to kill him. I stand in awe of anyone who could perform, much less participate in, such a grisly inhuman act. It must take a heart of stone and a soul of ice.

A vote against this motion to override is to legitimize thousands of acts of appalling cruelty, not to an animal, a creature of the sea or of the forest, but a fellow human being who has the misfortune to be temporarily unwanted. You have this chance today to put an end to the process of unspeakable destructive cruelty, unworthy of a civilized society.

Our beloved America is becoming "The Killing Fields." One state has accepted euthanasia, so the elderly can be killed legally, and the abortion culture has resulted in 35 million abortions since Roe v. Wade in 1973. Kill them in the womb, and now, with partial birth abortion, kill them out of the womb, but keep killing them.

Those whose real agenda is to keep all types of abortion legal, at any stage, for any reason, have built their case on one lie after another. There is no polite way to say this. Deceptive? Misinformation? If one wants to be intellectually honest, you have to call a lie what it is.

First they claim this procedure did not exist. When a paper written by the doctor who invented it surfaced, they changed their story, asserting it was only used when a woman's life was in danger. But then the same doctor admitted that 80 percent of his partial-birth abortions were elective.

Then they lied about anesthesia. Planned Parenthood told us the baby does not feel any pain. The anesthesia given to the mother transfers itself in the womb to the baby, and the baby does not feel any pain.

The anesthesiologists went off the wall, because that frightened women into thinking their babies are at risk if they get anesthesia, and the anesthesiologists came in and testified that was a falsehood, and they shot this down in a hurry.

The Executive Director of the National Abortion Federation admitted on Nightline, and these are his words, that he had "lied through his teeth" about this procedure, thousands of them are performed on healthy little babies, and he was distressed at the loss of credibility the abortion cause was suffering because of the lies.

Former Surgeon General C. Everett Koop reacted to the President's veto with this statement: "I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction. Such a procedure can not truthfully be called 'medically necessary' for either mother or the baby."

Gee, the administration listens to Dr. Koop on tobacco. I wish they would listen to him on partial-birth abortion.

For over two centuries of our national history, we have struggled to create a society of inclusion. We keep widening the circle for those for whom we are responsible, the aged, the infirm, the poor. Slaves were freed, women were enfranchised; civil rights and voting rights acts were passed; our public spaces were made accessible to the handicapped; Social Security for the elderly, all in the name of widening the circle of inclusion and protection.

This great trajectory in our national history has been shattered by Roe v. Wade and its progeny. By denying an entire class of human beings the welcome and the protection of our laws, we have betrayed what is best in our tradition. We have also put at risk every life which some day someone might find inconvenient.

Madam Speaker, we cannot repair the damage to our culture done by Roe v. Wade. We cannot undo the injustice done to 35 million tiny babies who have been exterminated because seven Justices, strip mining the Constitution, found a right to abortion that no one had ever seen for 200 years.

□ 1400

We cannot unring the bell, we cannot undo that injustice, but we can stop the barbaric butchery of partial-birth abortion. We betray our own humanity if we do not.

Matthew 25 is often read at Catholic funeral masses. It is a lovely passage. "I was hungry and you fed me; I was naked and you clothed me; I was a stranger and you took me in."

That is what I ask for here today. Welcome the little stranger. Vote to override.

Mr. CONYERS. Madam Speaker, pursuant to general leave I request the following remarks be inserted in the CONGRESSIONAL RECORD during consideration of the bill H.R. 1122.

Imagine that you—or your wife—or your daughter, learned when she is seven months pregnant that the fetus had a lethal neurological disorder and all of its vital organs were atrophying. After consulting with specialists and being told that the pregnancy is seriously jeopardizing the mother's health, and possibly her life, you are told that an intact D&E procedure has the best chance of preserving the mother's health and her ability to become pregnant again.

Or imagine that the mother is 32 weeks pregnant when she learns that the baby has no brain. The fetus has no chance of survival. The mother is diabetic, so a Cesarian section and induced labor are more dangerous to her health and reproductive capacity than an intact D&E procedure.

Would you want 435 politicians to tell you—or your wife—or your daughter, the type of medical procedure she could use in this painful situation? Should Congress be able to determine whether a woman will lose her capacity to reproduce and bear children? Well that is precisely the situation that Coreen Costello and Vicki Stella were in. And if we adopt this bill, we will be telling many, many other women that Washington knows best when it comes to terminating pregnancies that have resulted in tragic circumstances.

Women's lives and health must be protected. This bill is unconstitutional, because it contains no exception providing for the physical health of the mother. And that is why we should vote against it. Roe v. Wade, and its

progeny, clearly hold that a woman's right to protect her life and health, in the context of reproductive choice, trumps the government, as big brother, in its desire to regulate.

Courts across the country have continued to reaffirm Roe's holding that, "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Roe, 410 U.S. at 164–65, 93 S. Ct. At 732. Without such an exception, this legislation could jeopardize women's health.

Of course, the Republican leadership has little interest in developing a credible and serious constitutional proposal that could be signed into law. Instead, they prefer a "wedge" issue that can divide the American people. That's why they wouldn't make a single amendment concerning health in order.

But H.R. 1122 has no health exception, and we are led to believe that the reason is because its authors have determined that under no possible condition is a mother's health—no matter how serious—to be equated with the potential life of a fetus. To them, the partial birth abortion ban is merely a means of preventing any and all abortions, even where the mother's health is in jeopardy.

We must make abortion less necessary, not more difficult. But the reality is, this bill will do absolutely nothing to reduce the number of abortions performed in this country. Zero. It will only criminalize physicians for pursuing the safest alternative in dealing with a very painful, difficult, and terrifying circumstance when a pregnancy has gone bad, and the mother's physical health is in jeopardy. And it will encourage states to attempt to outlaw abortion at any and every stage.

It is this effort that is becoming a trend among anti-choice proponents across the country. One need only look to the case of Wisconsin, where for a few days no woman was able to obtain an abortion, in order to see the true breadth of this ban. In mid-May, an anti-choice judge refused to grant a temporary injunction against the state's "Partial Birth Abortion Ban." Upon learning of this decision, abortion providers in Wisconsin refused to provide any abortion for fear of prosecution under this broad ban. Fortunately, the Seventh Circuit Court overruled the judge and the health of Wisconsin women is once again protected.

It is clear that H.R. 1122 is unconstitutional. State versions of partial birth abortion bans, have been blocked or limited by eighteen federal and state courts. Many of these cases involve laws modeled after H.R. 1122. Based on these decisions, it is clear that H.R. 1122 is unconstitutional.

As of July 9, 1998, 28 states have enacted legislation banning so-called "partial birth abortion" or other abortion procedures. Court challenges regarding these laws have been initiated thus far in 20 states. In 18 of those, courts have partially or fully enjoined the laws. In 7 of those 18, courts have permanently enjoined the laws.

Only three courts have not enjoined state "partial birth abortion bans" when they have looked at the statutes. However, in Alabama, which is one of the three states, the court has not ruled on the merits, but the Alabama Attorney General has directed the state's district attorneys to enforce the statute only after viability. The Alabama court did not rule on the merits of the case at this time, because the court was very unclear about the meaning of various terms in the statute, such as the meaning of a "partial birth abortion." As a result, the court will not issue a final ruling, pending further explanation about the meaning of the statute from the Alabama Supreme Court *Summit Medical Associates* v. *James*, 984 F. Supp. 1404 (M.D. Ala. 1998). This decision is further evidence that courts are having a hard time interpreting the unconstitutionally vague language of so called "partial birth abortion bans."

And in Virginia, a single Circuit Judge for the U.S. Court of Appeals for the Fourth Circuit granted a stay of a preliminary injunction issued by the district court, allowing the law to go into effect. (Richmond Medical Center for *Women* v. *Gilmore*, No. 98–1930 (4th Cir. June 30, 1998) (Luttig, Cir. Judge). This makes Virginia the only state where a Court has gone against the grain and overturned a preliminary injunction against a ban.

But in the majority of cases, there is no question that courts have overwhelmingly come to the conclusion that so called "partial-birth abortion" statutes are patently unconstitutional. Some of the language from these cases is especially illustrative. For instance, a federal district judge in Arizona held that Arizona's statute, which was modeled on H.R. 1122, "unconstitutionally burdens a woman's right to terminate a nonviable fetus, and that the Act is void for vagueness in that it does not sufficiently define the conduct which is attempts to proscribe." *Planned Parenthood of Southern Arizona* v. Woods, 982. F. Supp. 1396 (D. Ariz. 1997).

In Iowa, a court held that the statute that was modeled after H.R. 1122 was unconstitutional because it "likely infringes on the constitutional rights of women . . . the protection of constitutional rights clearly outweighs any interest the state may have in promoting the interests of the fetus with a statute that is unconstitutional." *Planned Parenthood* v. *Miller* and *Niebyl* v. *Miller*, Civ. No. 4–98–CV–90149, 1998 U.S. Dist. LEXIS 9851 (D.S.D. Iowa, June 26, 1998).

In addition, most of the medical and legal experts who have reviewed the legislation note that it is extremely vague and broad and as a result, may outlaw abortion procedures at ANY stage of pregnancy. In fact, in my home state of Michigan, on July 31, 1997, federal District Court Judge Gerald Rosen struck down Michigan's "partial-birth" abortion ban, finding that the definition of "partial-birth" was so vague that doctors lacked notice as to what abortion procedures were banned. *Evans* v. *Kelley*, 977 F. Supp. 1282 (E.D. Mich. July 31, 1997). Moreover, the court found that the state law unduly burdened women's ability to obtain an abortion, in violation of the undue burden analysis established in the Supreme Court's landmark case of *Casey* v. *Planned Parenthood,* where the Court held that at least previability, states may not place an undue burden on the right of women to choose to end a pregnancy. *Planned Parenthood* v. *Casey*, 50 U.S. 833 (1992). The judge noted that "the Michigan Legislature rejected every attempt to narrow and more specifically define the sweep of its statute, and as a result, produced a law clearly violative of Supreme Court precedent." It is clear that this bill violates that well established constitutional law long-settled by Roe. An Arizona court also found the same thing.

This purposeful vagueness can only be interpreted as an effort to outlaw other abortion and obstetric techniques as well. As recently as February 12, 1998, a District Court in Illinois found, "The Partial Birth Abortion Ban Act is unconstitutionally vague in that it fails to give fair notice of the conduct that is prohibited." *Hope Clinic et al.* v. *Ryan*, No. 97C8702 (N.D. Ill. 1998).

Let's take the politicians out of this intensely personal issue. When it comes to a women's life or health, Washington doesn't always know best.

Mr. LEVIN. Madam Speaker, I do not favor late term abortions. I believe they should only be permitted to preserve the life of the mother or to prevent serious consequences to her health. Unfortunately, the bill we are considering today, like the similar bill I opposed last year, does not protect a woman's life or serious risk to her health.

I support legislation, H.R. 1032, the Late Term Abortion Restriction Act, which would ban all late term abortions, whether "partial birth" or by other procedures, except in cases where in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

I believe such a prohibition on late term abortion would pass scrutiny by the courts and be held constitutional by the Supreme Court which has ruled that during the period known as "post viability" states may limit abortions, except in cases where the mother's life or health are at serious risk.

The positive solution to this very difficult issue is not to continue considering the same legislation, but to allow the Late Term Abortion Restriction Act to be considered on the floor of the House.

Mr. PACKARD. Madam Speaker, I rise today in support of efforts to overturn the President's veto of H.R. 1122, the Partial Birth Abortion Ban, which the President vetoed last October.

Madam Speaker, I have always believed that any abortion is a tragedy. The fact that abortions are so prevalent in America today is a clear indication of how poor a job we are doing at teaching the importance and value of human life. It's hard for me to comprehend how a person could come to such a decision, given the thousands of parents who are desperate to adopt healthy babies.

While I understand that there are those with differing opinions on this sensitive issue, it remains impossible for me to understand how anyone can defend the practice known as partial birth abortion. Partial birth abortion is one of the most abhorrent procedures I have ever heard of. It is barbaric and has absolutely no place in a civilized society.

Most Americans agree that partial birth abortions are unjustified. In fact, several of our pro-choice colleagues have even drawn the line when it comes to allowing this to continue. Even the American Medical Association has

endorsed our efforts to ban partial birth abortions. Madam Speaker, the President is simply out of touch with the great majority of Americans on this issue. I am hopeful that my colleagues will join me in overriding the President's veto of H.R. 1122, and end this horrible practice forever.

Mr. LEWIS of Kentucky. Madam Speaker, my colleagues and I come to this floor everyday to debate a wide range of legislation in anticipation that what we do will indeed help to improve the lives of our fellow citizens and hopefully strengthen this great democracy of ours. While we will always face tremendous social and economic challenges, there is no greater threat to our nation than the disregard we hold for our unborn children. Sadly, our President and many members of this body continue to defend the indefensible practice of partial birth abortion. Abortion at all stages is indeed a tragedy and has served to cheapen the value of life in this country and throughout the world. As long as this nation condones the legalized killing of millions of preborn babies, we will continue to struggle with its consequences, including the senseless acts of violence committed by our youth. The defenders of partial-birth abortions wish to perpetuate the evil myth that this procedure must be available to protect the health of a mother in rare occasions.

Fortunately, the truth now shines on this dreadful practice. The President and his advisors can choose to rationalize their defense of partial birth abortions, but we need to look no further than to our medical professionals who have spoken out against this outrageous procedure. To quote our former Surgeon General C. Everett Koop and the Physicians' Ad Hoc Coalition for Truth, "partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Madam Speaker, I am heartened by the House's action today to stand firm for the sanctity of life in its decision to override the President's veto of the Partial-Birth Abortion Ban Act. It is my fervent hope that the Senate will respond in kind and support this noble effort.

Mr. KOLBE. Madam Speaker, over the past several months, Congress and the American people have endured a wrenching debate concerning the issue of "partial-birth" abortions. Like most Americans, I do not support abortion on demand. In fact, I am opposed to any late term abortion by whatever method, unless it is performed to save the life of the woman or to avert serious adverse consequences to her health.

The Congressional debate has centered, thus far, around legislation introduced by Congressman CHARLES CANADY, H.R. 1122, the Partial Birth Abortion Act of 1997. This bill would federalize the regulation of abortion, a matter historically left to the discretion of the states. And, for the first time in medical history, it would ban a specific procedure, known medically as a dilation and extraction (D&X). I could not support this legislation when it came to the floor of the House of Representatives earlier because of its uncompromising language banning this specific late term abortion method even in a case where a pregnancy goes tragically wrong and the woman's health is placed in serious peril.

Recognizing the need for some answers in a debate that has generated more heat than light, I joined my colleagues, Congressman JIM GREENWOOD and STENY HOYER, as a cosponsor of a bill which would prohibit all late-term abortions, regardless of the method used to terminate the abortion. This bill, H.R. 1032, the Late-Term Abortion Restriction Act, applies to all abortions performed after "viability", defined as that time when a fetus is able to survive outside the womb. The bill provides an exception only in cases where it is necessary to save the life of the woman or to avert serious adverse consequences to her health.

Unlike H.R. 1122, I believe this legislation correctly puts the emphasis on when abortions are performed, not how they are performed. It does not try to put Congress in the inappropriate role of determining the correctness of one particular medical procedure. Instead, this bill makes it clear that throughout the course of a pregnancy, prior to viability, medical decisions regarding a woman's personal care and treatment must lie with the patient, her physician, and her family—not lawmakers in Washington.

H.R. 1032, which I support, would prohibit all post viability abortions even if the woman suddenly decided she no longer wanted the child or was emotionally unable to care for a child. I cannot and I will not justify a late term abortion in these instances. However, when an abortion is medically necessary, I want every woman to have available to her the procedure that is the safest.

Today, we are here to vote to override the President's veto of H.R. 1122, the Partial Birth Abortion Ban Act; however, I will not vote to override that veto since H.R. 1122 does not include an exception for situations where the mother's health or life is in danger. I will continue, however, to work to pass legislation to ban all late term abortions while protecting the life of the mother.

Ms. PELOSI. Madam Speaker, I rise today in strong opposition to the override of H.R. 1122, the "late term" abortion ban and I ask my colleagues to sustain the President's veto.

Madam Speaker, this bill has been vetoed twice by the President because it fails to protect a woman's health and fertility. Once again, conservative Members of this body are encroaching on a very private, personal matter by infringing on a woman's constitutionally protected right to make a personal decision regarding her personal health.

Madam Speaker, the issue isn't about how many women undergo this procedure, but how many women have no other alternative but this procedure to save their life and reproductive health.

This bill challenges the Roe versus Wade decision to protect a woman's right to choose. It supersedes safeguards in the Constitution which protect a woman's right to terminate a pregnancy of a viable fetus if an abortion is necessary to protect the life or health of the mother. The Roe decisions says that a state may "regulate, and even proscribe, abortion" except when a woman's life or health is threatened. Mr. Speaker, the authors of this legislation failed to incorporate the need to protect a mother's health into this legislation.

The terms of this bill are so loose that 18 courts have struck down or severely limited enforcement of the "late term" abortion ban. Respected judges from around the county have rule that the definition in the ban is both vague and overly broad which has resulted in the ban of some of the most safe and common abortion procedures used throughout pregnancy. An undue burden is placed on a woman's right to choose and on a doctor's ability to practice safe medicine.

All of these restrictions on abortion will only make abortions more dangerous. Let us protect not only the privacy and personal choice between a woman and her doctor, but also the rights outlined in the Supreme Court's decision, Roe versus Wade.

I ask my colleagues to support and maintain the right of a doctor to determine which is the safest and most appropriate medical procedure based on a woman's individual circumstance within the protection of Roe versus Wade.

Madam Speaker, Congress has no business coming between a woman and her doctor. When making a medical decision, doctors should not be faced with the threat of imprisonment for having to perform a procedure to save a mother's life or protect her reproductive health. The tragedy behind this unfortunate situation is that most women who undergo this difficult procedure desperately want a successful pregnancy. Listen to the women who have been faced with this tragic situation.

Recently, I learned of a sad story about Kim and Barrett Koster of Iowa who enthusiastically awaited the birth of their son. In addition to Kim being diabetic which makes healing more difficult, the couple was faced with the devastating diagnosis that their son would be born without a brain stem. The dilation and extraction method was their only option. Kim and Barrett and their failed pregnancy are a perfect example of the need for access to safe medical procedures.

Madam Speaker, let us refrain from legislating the work of a medical professional and refrain from jeopardizing the lives of mothers. I urge my colleagues to vote to sustain this veto.

Mr. MORAN of Virginia. Madam Speaker, in debating the ban on partial birth abortion we have heard several different versions of the facts regarding the number of partial birth abortion procedures performed each year. Similar debate has focused on whether or not the procedure is performed on healthy fetuses of healthy mothers.

According to the Centers for Disease Control latest statistics, 1.3% of the abortions performed in 1994 were performed after the 21st week of gestation. According to the Alan Gutmacher Institute only .4% (5,070) of legal abortions were performed after the 24th week of gestation, the point at which most physicians agree viability begins. These facts tell us that late term abortion is not common. No statistics are available for the number of partial birth abortion procedures performed but it doesn't matter. The fact is, if this procedure is performed after viability on healthy fetuses in healthy mothers it is too many and we should stop it and the Supreme Court has told us that we may stop it after viability except in certain circumstances.

I have been committed throughout my career in Congress to protecting the reproductive health and rights of women. But the partial birth abortion procedure should not be protected as a reproductive right. It is an extremist procedure created by anti-choice extremists to destroy the credibility of moderate pro-choice activists. It is not protected by the Supreme Court in Roe versus Wade or in Casey versus Planned Parenthood and it should not be protected by Congress. This procedure is performed after fetal viability on the healthy babies of healthy mothers and it should be stopped.

I will continue to fight hard for women's reproductive freedoms; freedoms that are guaranteed to us in the Constitution and restated by the Supreme Court. But I cannot condone this procedure. I support a vote override of the President's veto and I urge my colleagues to do the same.

Mr. BARCIA. Madam Speaker, here we go again. We are voting on the Partial Birth Abortion Ban Act although a majority of the American people clearly do not support this gruesome procedure. We should not be here debating whether or not this procedure should or should not be legal. Clearly, this procedure should be illegal and 28 states have passed laws making this so.

We should not be here again debating this issue. Instead, we should be supporting efforts to decrease abortions, such as abstinence, which has worked very well in Michigan. I am proud to say that Michigan's abortion rate decreased by 2.3 percent. Although this is a good trend, sadly people who choose abortion in 1997 ended 29,528 babies' lives.

Instead, we should be supporting the medical miracles that are taking place. One of my newest constituents was a candidate for a partial birth abortion. Instead, after only 20 weeks in his mother's womb, he underwent surgery to save his life. The doctors performed an amazing surgery and my constituent was born, a little early, but is a healthy little boy.

I urge my colleagues here, in the House, and in the other body, to override the veto and save the lives of those innocent children who have not yet witnessed this cynical world where we take the miracle of life for granted.

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

The SPEAKER pro tempore (Mrs. EMERSON). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, the vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 296, nays 132, not voting 7, as follows:

[Roll No. 325]

YEAS—296

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NAYS—132

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kennedy (MA)
Kennelly
Kilpatrick
Kolbe
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (NY)
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Brady (PA)
Ford
Gonzalez
Lewis (GA)
Markey
Serrano
Young (FL)

□ 1422

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

APPOINTMENT OF CONFEREES ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. PACKARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California? The Chair hears none, and without objection appoints the following conferees: Messrs. PACKARD, PORTER, HOBSON, WICKER, KINGSTON, PARKER TIAHRT, WAMP, LIVINGSTON, HEFNER,

OLVER, EDWARDS, CRAMER, DICKS and OBEY.

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 504 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4193.

□ 1425

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 22, 1998, the bill had been read through page 123, line 16.

Pursuant to the order of the House of that day, no further amendment to the bill is in order.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 2 offered by the gentleman from Oregon (Mr. DEFAZIO), the amendment offered by the gentleman from Washington (Mr. MCDERMOTT), the amendment offered by the gentleman from New York (Mr. HINCHEY), amendment No. 16 offered by the gentleman from California (Mr. MILLER), and the amendment offered by the gentleman from New Jersey (Mr. PAPPAS).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. DEFAZIO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DEFAZIO: Page 107, beginning at line 19, strike section 338 (and redesignate the subsequent sections accordingly).

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 81, noes 341, not voting 12, as follows:

[Roll No. 326]

AYES—81

Abercrombie
Barcia
Bass
Blagojevich
Bono
Boswell
Brown (CA)
Camp
Capps
Carson
Chabot
Chenoweth
Conyers
Crapo
Cummings
Davis (IL)
DeFazio
Deutsch
Emerson
Engel
Etheridge
Evans
Filner
Furse
Gutierrez
Harman
Hayworth
Hefner
Herger
Hill
Hoekstra
Hooley
Horn
Hostettler
Hulshof
Jackson (IL)
Jenkins
Klug
Kucinich
Lipinski
Maloney (NY)
Manzullo
McHale
McIntosh
McIntyre
McKinney
Menendez
Metcalf
Mink
Mollohan
Moran (KS)
Nadler
Owens
Pallone
Pascrell
Paul
Peterson (MN)
Pitts
Rahall
Rogan
Rothman
Royce
Rush
Salmon
Sanders
Scarborough
Schumer
Shadegg
Shaw
Slaughter
Smith, Linda
Snyder
Stearns
Strickland
Sununu
Thune
Torres
Velazquez
Wexler
White
Wise

NOES—341

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Cardin
Castle
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Deal
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
English
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Ryun
Sabo
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—12

Brady (PA)
Davis (VA)
Ford
Gonzalez
Hunter
Lewis (GA)
Markey
Serrano
Solomon
Towns
Watt (NC)
Young (FL)

□ 1444

Ms. WOOLSEY, Mr. HILLEARY and Mr. WAXMAN changed their vote from "aye" to "no."

Ms. MCKINNEY and Messrs. BARCIA, METCALF, ROTHMAN, and NADLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 504, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. MCDERMOTT

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Washington (Mr. MCDERMOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McDERMOTT:

Page 118, beginning at line 8, strike section 333 (and redesignate the subsequent sections accordingly.)

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 202, noes 221, not voting 11, as follows:

[Roll No. 327]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Nussle
Oxley
Packard
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—11

Brady (PA)
Ford
Gonzalez
Kaptur
Lewis (GA)
Markey
Norwood
Scarborough
Serrano
Weller
Young (FL)

□ 1453

Mr. ENSIGN changed his vote from "aye" to "no."

Mr. EDWARDS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HINCHEY

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment Offered by Mr. HINCHEY:

Page 106, beginning at line 16, strike section 327 (and redesignate the subsequent sections accordingly.)

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 249, not voting 9, as follows:

[Roll No. 328]

AYES—176

Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bilbray
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Chabot
Clayton
Conyers
Costello
Coyne
Cummings
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Dooley
Doyle
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fawell
Fazio
Filner
Forbes
Fossella
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Hobson
Holden
Hooley
Hoyer
Hulshof
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Menendez
Miller (CA)
Minge
Mink
Moakley
Morella
Nadler
Neal
Neumann
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Pelosi
Petri
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Sabo
Sanchez
Sanders
Sawyer
Schumer
Sensenbrenner
Shays
Sherman
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Strickland
Tauscher
Tierney
Torres
Towns
Upton
Velazquez
Vento
Walsh
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—249

Abercrombie
Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla

Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (IL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fattah
Foley
Fowler
Fox
Frank (MA)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kilpatrick
Kim
King (NY)
Kingston
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Rush
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stokes
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Visclosky
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—9

Blagojevich
Brady (PA)
Ford
Gonzalez
Lewis (GA)
Markey
Rothman
Serrano
Young (FL)

□ 1502

Ms. ROYBAL-ALLARD changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 16 OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MILLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. MILLER of California:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in this Act may be used to construct any road in the Tongass National Forest.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 237, answered "present" 1, not voting 10, as follows:

[Roll No. 329]

AYES—186

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Petri
Pomeroy
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Sensenbrenner
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Wexler
Woolsey
Wynn
Yates

NOES—237

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Mica
Miller (FL)
Mollohan
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Paxon
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)

ANSWERED "PRESENT"—1

Franks (NJ)

NOT VOTING—10

Brady (PA)
Doolittle
Ford
Gonzalez
Lewis (GA)
Markey
McIntosh
Parker
Serrano
Young (FL)

□ 1509

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DOOLITTLE. Mr. Chairman, on rollcall No. 329, I was unavoidably detained in a discussion with the Speaker concerning a matter of utmost importance to my constituents. Had I been present, I would have voted "no" on this rollcall.

AMENDMENT OFFERED BY MR. PAPPAS

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. PAPPAS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PAPPAS:

Insert after the final section the following:

SEC. . The amounts otherwise provided by this Act are revised by increasing the amount for "LAND ACQUISITION AND STATE ASSISTANCE" under the heading "NATIONAL PARK SERVICE" (to provide funds for the State assistance program) and reducing the amount for "GRANTS AND ADMINISTRATION" under the heading "NATIONAL ENDOWMENT FOR THE ARTS", by $50,000,000.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 139, noes 285, not voting 10, as follows:

[Roll No. 330]

AYES—139

Aderholt
Archer
Armey
Bachus
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Blunt
Boehner
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Ehrlich
Emerson
Ensign
Everett
Fossella
Gallegly
Gekas
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
King (NY)
Kingston
Knollenberg
Latham
Linder
Livingston
Manzullo
McCollum
McIntosh
Metcalf
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Packard
Pappas
Paul
Paxon
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Riggs
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Sununu
Talent
Tanner
Taylor (MS)
Thomas
Tiahrt
Turner
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)

NOES—285

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Capps
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Cook
Costello
Coyne
Cramer
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Shaw
Shays
Sherman
Sisisky
Skaggs
Skeen
Slaughter
Smith (OR)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Tauscher
Tauzin
Thompson
Thornberry
Thune
Thurman
Tierney
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Wexler
Weygand
Whitfield
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Brady (PA)
Conyers
Ford
Gonzalez
Lewis (GA)
Markey
Parker
Serrano
Taylor (NC)
Young (FL)

□ 1517

Mr. BROWN of Ohio changed his vote from "aye" to "no."

Messrs. KASICH, SCARBOROUGH and SANFORD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ETHERIDGE. Mr. Chairman, I rise today in support of the necessary level of $98 million in funding for the National Endowment for the Arts (NEA).

As an advocate of quality educational opportunities for all our children, it is my belief that adequate funding of the Arts is important to providing a well rounded education. If you have seen a play, visited a museum, read a book of poetry or short stories, chances are you have participated in an event made possible through the NEA. Learning is a lifelong journey, and learning the arts begins early. It is nourished through quality programs in schools, homes and the communities, and continues to the very end of our days.

The NEA costs each American about 36 cents per year, less than one-hundredth of 1% of the federal budget. Its mission is designed to foster the excellence, diversity and vitality of the arts in the US, and to broaden public access to the arts. The NEA makes the Arts accessible to more Americans, promotes Arts education, and forges partnerships with local, state, regional, and federal arts organizations. Millions of children, regardless of their economic background, now receive formal arts education in local public school systems, helping to improve their overall academic performance. In North Carolina, the NEA has supported many wonderful projects of great cultural and educational value to the citizens of my great State including the American Dance Festival and the North Carolina Symphony Society.

Mr. Chairman, as we approach the 21st Century, we need to be sure that we provide every necessary tool to encourage creativity in our children. Exposure to the Arts provides access to the rich history of the past and the key to the future. We must continue to support this effort and ensure funding for this important agency.

Mr. THOMPSON. Mr. Chairman, I rise today in support of H.R. 4193—Department of the Interior and Related Agencies Appropriations Bill, 1999. This bill appropriates $40,812,000 in funding for the Historic Preservation Fund which is an essential element in the preservation and restoration of historic buildings and structures at Historically Black Colleges and Universities (HBCUs). These buildings will be ranked and receive funding in accordance to actual need.

The National Park Service has ranked twelve HBCUs that are considered to have the

most endangered historic sites. Those HBCUs, in order of rank are:

1. Allen University (SC)
2. Tougalo College (MS)
3. Knoxville University (TN)
4. Fisk University (TN)
5. Claflin University (SC)
6. Talladega College (AL)
7. Rust College (MS)
8. Stillman College (AL)
9. Concordia College (AL)
10. Miles College (AL)
11. Voorhees College (SC)
12. Selma College (AL)

The preservation and restoration of the historical sites at the campuses of Rust College and Tougaloo College, both located in Mississippi, have been a personal endeavor of mine for many years. These institutions have historically educated African-Americans and other disadvantaged populations of this country as well as produced a large percentage of our nation's minority doctors, lawyers, educators and other professionals.

HBCUs also address and intervene in issues of violence, hopelessness, poverty, and illiteracy through research, community service and other projects. I, myself, am a graduate of an HBCU, Tougaloo College, which has notably been the site of many significant events in America's history. Consequently, I have seen first hand the need for safe, sanitary, and appropriate facilities and acknowledge the insufficient endowments for the restoration and maintenance of buildings at HBCUs.

All of the many HBCUs will continue to make valuable and much needed contributions to all of our citizens with the continued investments and support from federal agencies and departments through the passage of this bill.

The CHAIRMAN. No further amendments being in order, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LATOURETTE, 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. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 504, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments 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? If not, the Chair will put them en gros.

The amendments were agreed to.

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

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. Mr. Speaker, in its present form, I certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the bill, H.R. 4193, to the Appropriations Committee with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill add the following new section:

SEC. . Notwithstanding any other provision of law, none of the funds made available in this Act (and especially no funds for the National Endowment for the Arts) shall be made available unless Sidney R. Yates stands for election to the 106th Congress from the 9th District of Illinois.

Mr. REGULA. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The gentleman from Ohio reserves a point of order.

The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, since the day I came here, SID YATES, more than anyone else, has been associated with this bill year after year. I think it is safe to say that, without SID YATES' leadership, there would be no funding for the arts and humanities in this bill.

On the environmental front, in dealing with public lands, no one can question that SID YATES has, indeed, been Mr. Public Interest on those issues. In so many fields, he has set the highest example of what public service is supposed to be all about. He has been fighting for justice. He has been fighting for humanity and decency in the actions that our government takes both at home and abroad. In defense of the individual against both government and corporate power, SID has had no peer.

He has graced this institution and honored this country with his service here. He has enriched the lives of each and every one of us who have served with him. He is indeed the Gentleman from Illinois.

I want to say to the House the greatest debate that I ever saw in this place never took place in this Chamber. It took place in the full Committee on Appropriations, a debate of titans between SID YATES and Eddie Boland on the SST many years ago.

I remember SID opening up that debate with a magnificent attack on the committee position. Eddie Boland responded with an incredibly able and eloquent defense of the committee position. With each speaker, we knew that the other could not possibly top what had just been said; and, yet, they continued to do so for well over an hour.

At the end of that debate—and this is the only time I have ever seen this in all of the years I have served here—the committee stood and gave each of them a standing ovation. In my view, that is what the gentleman from Illinois deserves right now.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker, I yield to the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the full committee.

Mr. LIVINGSTON. Mr. Speaker, I have served in the Congress for the last 21 years. I have served on the Committee on Appropriations since 1980 and have been involved in lots of controversial, sometimes partisan, sometimes not altogether clear debates about one issue or another.

But when one thinks in terms of the orderliness of this House, of the decorum, of the presentation of cogent incisive arguments, the ability to present those arguments without rancor and without excessive partisanship, one has to think of SID YATES.

SID has been a gentleman for as long as I have known him and for a lot longer than that. He has been an outstanding Member of this Congress. I dare say, except for one short, brief time that he stepped down and ran for Senate and then came back 2 years later, he is currently the longest-serving Member of Congress. He is also one of the most exemplary and one of those with whom I am proudest to serve. We wish you well, SID.

Mr. REGULA. Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me. I might address my comments to the gentleman from Illinois (Mr. YATES). Every summer of my life since 1985, I have found myself in a contest with the gentleman from Illinois (Mr. YATES). We have never been in anything other than rigorous disagreement on the subject at hand.

But in all those summers and in all those contests, while I cannot recall Mr. YATES ever did a kind thing to me, he was never unkind in the manner in which we dealt with one another. He was a gentleman. He was considerate.

On occasions, he even gave me advice, perhaps what might have been good advice, like "young man, you talk too much," but he was kind even when making that point.

Now I find myself realizing that, in the next summer I come to, I will not have my opportunity for the continuing contest with the distinguished gentleman from Illinois (Mr. YATES). If I may, let me say, I will miss you, but I will enjoy my summer or two. Thank you, and I hope you do the same.

Mr. REGULA. Mr. Speaker, before I make the final comments, I also want to mention that this will be the last time working on the Interior bill for the gentleman from Pennsylvania (Mr. MCDADE), one of our really cherished

Members, one that we all care a lot about and all respect. Where is he at?

Also, a last time for a rather recent vintage member of our committee, but a very thoughtful Member and one that I have treasured, the representative from Colorado (Mr. DAVID SKAGGS).

□ 1530

Mr. Speaker, let me say about SID, we have said a lot. Words cannot describe him. He is fair, he is a gentleman, he is thoughtful and he is a person of absolute integrity. He has a wonderful helpmate, his wife, Addie, and I want to mention her because she has been very much a part of SID's life.

I want to thank you, SID. I enjoy symphonies a lot more than I did when I started on the committee 24 years ago.

We wish you well.

Mr. Speaker, I withdraw my point of order.

Mr. OBEY. Mr. Speaker, I most reluctantly withdraw my motion to recommit.

The SPEAKER pro tempore. The question is on passage of the bill.

Pursuant to clause 7, rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 245, nays 181, not voting 8, as follows:

[Roll No. 331]

YEAS—245

Abercrombie
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Ewing
Farr
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Rogan
Rogers
Ros-Lehtinen
Roukema
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Strickland
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Yates
Young (AK)

NAYS—181

Ackerman
Aderholt
Allen
Andrews
Baldacci
Barcia
Barr
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Christensen
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crane
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Everett
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefley
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hostettler
Hunter
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sensenbrenner
Slaughter
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Stump
Stupak
Tanner
Tauscher
Thompson
Thurman
Tiahrt
Tierney
Torres
Towns
Turner
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wexler
Wynn

NOT VOTING—8

Brady (PA)
Brady (TX)
Ford
Gonzalez
Lewis (GA)
Markey
Serrano
Young (FL)

□ 1548

Mr. STRICKLAND changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BRADY of Texas. Mr. Speaker, on rollcall No. 331, I was unavoidably detained. Had I been present, I would have voted "yes."

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on further consideration of the bill H.R. 4194, and that I be permitted to include tables, charts and other extraneous material.

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

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 501 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4194.

□ 1549

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4194), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, July 17, 1998, the bill was open for amendment from page 52, line 3, to page 65, line 16.

Are there further amendments to this portion of the bill?

AMENDMENT OFFERED BY MR. OBEY

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

The Clerk read as follows:

Amendment offered by Mr. OBEY:

On page 59, before the period on line 12, insert:

: *Provided further*, That any limitation on funds for the Environmental Protection Agency or the Council on Environmental Quality in this Act shall not apply to conducting educational outreach or informational seminars.

Mr. OBEY. Mr. Chairman, what this amendment does is to supersede language in the report on page 59 which states that the Environmental Protection Agency and the Council on Environmental Quality are thus directed to refrain from conducting educational outreach for informational seminars on policies underlying the Kyoto Protocol until or unless the protocol is ratified by the Senate. This amendment would allow such educational outreach and informational seminars to proceed.

I think most people would agree that there is considerable difference of opinion concerning the Kyoto Protocol and global warming and climate change. I think most would also agree that the only possible way to reach an understanding or potential compromise on such an emotionally charged issue is if there is a full and free exchange of information and ideas.

Having said that, though, there is truth in the statement in the committee report that there can be a fine line between education and advocacy on an issue. Assuming adoption of the amendment, I would still encourage the EPA and the CEQ to pay close attention to the line between education and advocacy and stay on the right side of that line.

Now, as to what the amendment does not do, it does not change any of the statutory language in the bill regarding Kyoto. The limitation on page 58 of the bill still prohibits the use of funds to develop, propose or issue rules or regulations or decrees or orders for the purpose of implementation or in contemplation of the implementation of the Kyoto Protocol. I am not fully satisfied with that language because I think it in fact may block some activities that it should not block, but I recognize that there should be no imposition of rules or regulations or decrees until and unless the Kyoto Protocol is actually ratified.

Regardless of the outcome of the Kyoto Protocol, we all need to know much more about the issues of potential global warming and climate change. In order to have an informed public policy debate, the Congress should be encouraging, rather than stifling, education and outreach and informational dissemination activities.

This amendment does exactly that. It takes no position on the merits of Kyoto; it just allows for the educational process and the free flow of information to continue. I think that any objective person would recognize that there is nothing wrong with that, and I would urge adoption of the amendment.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly rise to oppose the amendment of the gentleman from Wisconsin (Mr. OBEY). I appreciate very much how much he has put into the efforts to come to an agreement on this issue. I am concerned how the EPA will interpret his language. Whether or not the gentleman's amendment is approved today, I look forward to working with him and others to find common ground and clarify the intent of the language.

The Member from Wisconsin is bringing up the issue of preserving an open debate on environmental issues. Although he and I may disagree on how we get there, we both agree on the policy of an open and public debate. My work to make sure we do not implement the Kyoto Protocol until we implement ratification specifically was to ensure that we do have the debate, that we do have the debate, as the U.S. Constitution requires, in the U.S. Senate with its advice and consent.

Since coming to Congress I have supported an open and public debate concerning environmental issues, including the issue of climate change, clean air, clean water, Superfund, environmental justice, and other important environmental issues. I will continue to work to make sure the EPA does not implement environmental policies through the back door, through regulatory tactics, especially when it does not have the legal authority to proceed forward.

There have been some who have claimed the language in this bill concerning the Kyoto Protocol would stifle the debate on climate change. As far as my personal goals on this issue, nothing could be further from the truth. I have been working to ensure that the Kyoto Protocol is not implemented until Senate ratification, as required by the U.S. Constitution. This gives us the open debate this issue so richly deserves.

Let us be clear. The language included in this bill does not do anything to interfere with valuable research, existing programs, or ongoing initiatives designed to carry out the United States' voluntary commitments under the 1992 Climate Change Convention.

And, education is another function conducted by the EPA. However, it should educate using balanced information without advocacy. The taxpayers deserve a balanced presentation of information. This is especially true when the EPA conducts educational outreach on climate change. I want to caution my colleagues. There is a very fine line between education and advocacy.

The EPA should never use taxpayer dollars to advocate their own agenda when it is not the official policy of the United States of America.

The EPA must be allowed to serve its primary purpose: To ensure that we have a clean, safe and healthy environment. We may have differing views on how to accomplish this goal, but we must be able to air those differences in the light of day. I will continue to work with my colleagues and fight for open debate on these important issues. I would challenge the EPA to join me in accomplishing this rather modest goal.

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

Mr. Chairman, I rise in opposition to the Obey amendment and in support of the language that has been put in this bill by the gentleman from Michigan (Mr. KNOLLENBERG). This entire effort is designed to protect the rights of the American people against an anti-American effort resulting from the Kyoto Treaty that has been proposed before the United States Senate. Thank goodness that the American people have risen up and said we do not want this treaty to be passed and the Senate has actually listened to the American people.

It is anti-American because it imposes a lot of strict, costly penalties on Americans, while allowing many countries, many Third World countries to continue to pollute our environment at will. Frankly, I am mind-boggled as to how the administration could look at this as a positive thing for our people, and then after the people have said no, we do not want this to be implemented because it will cost us money and jobs, to then try to implement this through the back door, trying to go through the EPA to implement some of the rules and regulations, even though we do not want them.

This is a classic maneuver that the administration has used in recent years, and when the Congress and the people say no to something, they find agencies that are currently in existence to try to implement rules and regulations and circumvent the will of the United States Congress and the American people.

So I commend my colleague from Michigan (Mr. KNOLLENBERG) for inserting this language to prohibit this back-door effort at costing the American people money and jobs to implement this anti-American treaty.

□ 1600

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

Mr. Chairman, over the last several months, I have participated in more than 20 hours of discussion during five hearings on the global warming issue. I am well aware of the impacts which the Kyoto Protocol may have on this country, but I am also aware of the possible consequences of global climate change.

When we look at this weather map from CNN of July 20, 1998, we can start

to see the dimensions of the problem where we have had some of the most unusual weather in this country that people have experienced ever.

All across this country, people are aware as they are sweating at home how different the weather is this year than any other year. And as scientists have looked at it, they have seen that indeed this weather has been unusually severe this summer.

We have had fires in Florida, floods in the Midwest, tornadoes destroying entire communities. And we look back at the temperature, last Wednesday the high temperature was 117 degrees in Phoenix. Today marks the 17th day in a row the temperatures are over 100 in Dallas.

Does anyone remember last winter? Not even a snowflake fell here in Washington. From January to June, average temperatures were the warmest on record. Temperatures in 1997 were the highest on record, and in 1998, so far it is even warmer.

Scientists predict that even more severe storms and unusual weather patterns will occur if we continue to pour greenhouse gases into the atmosphere.

I want to repeat: Scientists predict that more severe storms and unusual weather patterns will occur if we continue to pour greenhouse gases into the atmosphere, and we are no doubt seeing evidence of this right now.

Let us look again at some of the headlines. 1998, "Twister Death Toll Already 121." That is from USA Today last month. Chicago Tribune, "Tornado's Fury Nearly Wipes Town Off Map." June 17, San Antonio Texas Express, "Heat Melts Sections of I–35 in Laredo." From Greensboro, the Greensboro News and Record, July 9, 1998, "Drought, Fires Ravage State Economies."

When we look at just the news, what we have is evidence of rapid breaking warming trends. The 1990s have been the warmest years, according to scientists. It is not a political statement. The 1990s have been the warmest years in six centuries. 1997 is the warmest year ever recorded. This June, or this past June has been the hottest June since recordkeeping began over a century ago. July is on track to beat these records.

This is a statement from the National Oceanic and Atmospheric Administration. These are not politicians debating issues. These are scientists who have experience records that cannot be contested.

But for the moment let us set all of that aside. The American people know that the climate is changing. The American people can tell us that it is hotter than ever in some parts of this country; that the weather has been crazier in some parts of this country. People know this. And yet there are those who would not let the government of the United States even study why this is happening in relationship to global warming.

Language in the VA–HUD bill does not allow contemplation of implementation of the Kyoto Treaty. It does not allow the relevant agencies to prepare to develop rules or regulations. Basic public education on the science and implications of climate change would be prohibited under the language of this bill. This language puts a gag order on the relevant agencies and stifles informed debate on global warming, which is why the amendment offered by the gentleman from Wisconsin (Mr. OBEY) is relevant.

This practice of not letting the public know the debate, this surely is not the way, this cannot be the way to assure the future of this planet. We have to prepare for all possible eventualities in order to protect the planet for future generations. We cannot be here in this Congress just for ourselves. We have to remember the next generation, and the next generation, and the next generation. It is very clear that global warming is a fact of life and it is hurting this country and the world.

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

Mr. Chairman, I agree, as the gentleman from Wisconsin (Mr. OBEY) has already said, that no rules, no regulations that relate directly to the implementation of the Kyoto Protocols should be done in any direct way prior to the ratification of that treaty. But all his amendment does is make certain that all activities that are presently authorized by law in various other places will not be stopped on the basis of their having some implication for or some imagined implication for the Kyoto Protocols at some time.

Climate change and global warming are terms that we have heard a lot about recently. We know that there has been an enormous change in the ozone layer, a huge gap in the ozone layer that has left the whole continent of Australia in a position where they have to move heavily clothed, or at least they are advised to do so, because there is not that protection against radiation that has been with this planet for all of human existence.

Mr. Chairman, we also know, as the gentleman from Ohio (Mr. KUCINICH) pointed out, that some of the hottest summers in the last six centuries have occurred. My figure might be slightly different, but I think at least six of the 10 hottest years in this century have been within this decade. This is a trend that is going on as we speak.

National Geographic Magazine, in its last edition, had an article about extensive research by glaciologists in Antarctica where they have now looked through the record of previous ice ages and seen that the whole west Antarctic ice shelf is in danger of collapsing, which could end up in a very short period of time, in a matter of decades at most, raising the water table in this world, the water level in this world by feet. Not just inches, but feet.

So I think that the Obey amendment gives us the best chance. We cannot be in this position of only operating on the basis of what will get us through the next election. We have to think that even though our final exams in this body come every 2 years, we have got to think in terms of what is going to be happening 10 years and 20 years and 30 years down the road.

The Kyoto Protocols, from my point of view, clearly have flaws in them. They are too weak in many ways. They do not make certain that economic growth in emerging economies in the Third World is done with careful attention to how that energy is being used.

Were we to use energy in just one more nation, the Nation of China, at the same rate per capita that we are using, in the same way that our great economy uses energy, if we do not make the changes that will allow us to use energy much more efficiently, to produce much less in the way of greenhouse gases, if China were to produce and use energy in the same manner per capita as we do, we would have no chance, no chance whatsoever of turning this global warming around and getting control of it and stopping the rate at which human activity has affected the normal climate changes that this planet has gone through over a long period of time.

So, I would hope very much that the amendment offered by the gentleman from Wisconsin (Mr. OBEY) would be adopted so that we make certain that we do not, in our "know-nothingism" here, that we do not end up refusing to take what precautions, to add whatever research, to do those activities already allowed by law so that we can use energy in a much more efficient manner. I do not believe the Kyoto Protocols are anti-American in any way whatsoever. They may be flawed but they are certainly not anti-American. They are pro-planet.

I hope the Obey amendment will be adopted.

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

Mr. Chairman, I just want to respond a little bit about the issue of whether or not this is, in fact, the warmest June ever on record. According to Dr. John Christy of the Earth System Science Laboratory at the University of Alabama in Huntsville, who raised questions after hearing reports by the Associated Press and the National Public Radio last month, Dr. Christy researched the local records just, for example, at the Alabama State University climatology office and found that there were 6 years, 1914, 1921, 1936, 1943, 1952 and 1953, with warmer Junes than 1998, all of which were in many previous decades prior to this.

He also went on to tell us that the National Weather Service in Birmingham, Alabama, admitted that its State data only went back to the year 1958. So consequently, it is real hard to understand how the National Weather Service could possibly be speculating that this would be, in fact, the hottest June when its measures did not go back prior to that.

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

Mr. Chairman, it is interesting to note that we are discussing global warming. The Obey amendment addresses an important question, and that is whether or not EPA should be lobbying and should be pushing a treaty that has not been ratified by the United States Senate. I think that to allow EPA to do certain intelligence informational services that do not violate the laws against lobbying makes good sense, but I think to allow them to go further makes very poor sense.

I want to commend the author of the language in the Committee Report and the bill for having done this. I do not know whether there is going to be global warming or not, and I do not know anything about climatology. I would, however, observe that I have been studying this question for a long time. I probably know about as much as anybody else in this Chamber who does not know anything about it either.

I would observe that I was over at Kyoto, and over there nobody knew anything about it at all either. Some of the scientists who came forward to talk about global warming just a few years ago were predicting a new age of glaciation in which the world was going to get colder. I guess they found that it is more profitable to be on the side of global warming. That appears to be the more popular view.

I think that we ought to look at this from the standpoint, first of all, of the Constitution, of our proper responsibilities to see what the real situation happens to be. The real situation is that until the Kyoto agreement is ratified, it does not mean anything.

It also ought to be observed that the Senate of the United States has told this administration, by a vote of 95 to nothing, that they are not going to ratify. By the way, that is bipartisan because there was nobody who voted against it; everybody voted for it. They made it very plain they are not going to ratify it until it is very clear that that particular treaty affects everybody and that the United States is not going to be the only nation in the world which is compelled to cut back as much as 30 percent on our use of energy, to sign a treaty which is going to bind nobody else the same way it binds us.

The Europeans say, well, we are going to be bound and the British are going to get out in some neat devices because they have gone to North Sea natural gas. The Germans are going to point out how they do not have to comply very much because they have the fine situation where they have taken over and closed a bunch of old, inefficient fuel systems.

The Soviet Union says, we will not be bound. Most of the former Soviet bloc countries say we will not be bound and we will not sign. Nobody in Africa and the developing countries will be signing, and they will not be bound.

It is interesting to note that India, which is a massive emitter of CO–2, is not going to be bound.

It is also interesting to note that our friends in China have told me, in a discussion I had with our delegates, that they will never be bound; they are always going to be a developing country.

So that leaves Uncle Sap, the United States, which proposes to be bound by a treaty which is going to cause enormous economic hardship.

This is not going to be ratified by the Senate. We can just bet our bottom dollar on that particular point.

□ 1615

So, first of all, there should be lobbying by EPA in favor of this. The Obey amendment makes splendid good sense, and I would hope that everybody here who is interested in the well-being of their constituents and the continued economic development of the United States would take that same view.

But the hard fact of the matter is that EPA ought not and the administration ought not and the other agencies of the Federal Government ought not be able to move forward to implement a treaty that the Senate of the United States is not going to ratify, because 95-to-0 they found it is not in the interest of the people of the United States or the economic and other welfare of the people of this country.

So I would urge this body to cease a debate which is without significance in the proceeding before us, about global warming, which has not yet been proven, and about adoption of a treaty, which is not going to be adopted, and simply adopt the Obey amendment, see to it that we curtail lobbying and other activities, including implementing by regulatory or statutory action a treaty which is, A, not in the interest of the United States and, B, which is not ratified and not going to be ratified.

That is the voice of good sense, and I hope that my colleagues will listen to it, not because it is me saying it, but simply because if my colleagues reflect on the interest of their country they will come to that conclusion. I urge adoption of the Obey amendment.

Mr. McINTOSH. Mr. Chairman, I move to strike the requisite number of words, and in reluctant opposition, because I have a great deal of respect for the previous speaker, the gentleman from Michigan (Mr. DINGELL), and his work on this issue.

As I understand it, the Obey amendment would say educational activities would be allowed but advocacy activities would not. And perhaps I could even end up supporting this amendment. What I am concerned about, though, and was hoping to perhaps inquire of the gentleman from Wisconsin (Mr. OBEY) on some of the boundary lines between those two concepts.

For example, in my home State, in Indiana, there was a conference held in the last month at which every single one of the speakers spoke about the urgent need to do something to end the problem of global warming and urged support for the Kyoto Protocol. So there were no speakers providing an analysis of the cost, no speakers providing an alternative view of some of the science.

I wanted to ask the gentleman, if he would be so kind, how much leeway is there in the concept of educational activities versus activities that would be advocacy?

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

Mr. McINTOSH. I yield to the gentleman from Wisconsin.

Mr. OBEY. Frankly, there is, in the human situation, always a lot of leeway. The Congress does not have the ability to serve as a nanny in dealing with every agency of government who might get out of hand to do something illegitimate.

The language of this amendment is pretty clear. The agency is expected to provide education, not advocacy. I would think that any time that the agency engages in an activity which goes beyond the line of the objective of providing information, I would think that people on the side of the issue who think that they have been skewered by it would bring it to the attention of the Congress, and I would think the Congress would react accordingly.

I am not in the business of censorship, and I cannot be in the business of defining ahead of time whether some idiot in some agency is going to do something which they are not supposed to do under the law. All I can say is that the language is quite clear. My comments in explaining the amendment are quite clear. And if the agency goes across the line into advocacy, it does so at its peril.

Mr. McINTOSH. Reclaiming my time, I hope the gentleman would agree with me, if it were an educational program such as the one in Indianapolis, where all of the speakers were advocates for the treaty, that that would cross the line and now we are establishing a standard that says they have to at least have some balance.

Mr. OBEY. If the gentleman will continue to yield, I do not want to comment on a conference that I was not in attendance at. I do not know whether the gentleman's characterization of that meeting in Indianapolis is accurate or not. I assume it is, but I do not

know that to be the case. And so I simply am reluctant to provide an adjective describing anything that I do not know anything about.

Mr. McINTOSH. Mr. Chairman, I appreciate the gentleman's comments, and reclaiming my time, the concern that I have, and it is with reluctance, because I think the Obey amendment has drawn an appropriate line; where educational activities would be okay, advocacy is not, rulemaking is not; and all of the other activities that are prohibited in the Knollenberg amendment would continue to be prohibited.

But I am worried that Vice President GORE has sent a signal to the agencies that regardless of whether Kyoto is implemented or not, he and the President expect them to move forward in addressing this problem. And I think we have to correct for that, and we have with the Knollenberg amendment, by saying, no, they cannot use taxpayer funds to advocate for the adoption of Kyoto; they cannot use taxpayer funds to regulate, to implement Kyoto.

So I guess I am very strongly in support of the Knollenberg language. I appreciate the work that the gentleman from Wisconsin has done to try to clarify that mere educational activities would be allowed. It is with some reluctance that I think we need to be more specific so we do not cross over into that line of advocacy.

Mr. OBEY. Mr. Chairman, if the gentleman will yield once again, I would simply note that nothing in this amendment would change the underlying law which prohibits Federal agencies from lobbying for or against legislation pending before Congress, and I assume that applies to indirect as well as direct lobbying.

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

Mr. Chairman, I have been having this discussion with the gentleman from Indiana (Mr. McINTOSH) in committee now for quite some time, and I rise in support of the Obey amendment. During the past 4 months, in the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the Committee on Government Reform and Oversight, we have had at least five hearings. And what some have deemed to be the Clinton administration's back door of implementation of the Kyoto Protocol, we have been exposed and seen all kinds of frightening figures and numbers and portraits of devastating scenarios played out by a wide variety of witnesses on the possible effect the protocol would have on our economy and our jobs.

Let me assure this body, as we have assured the gentleman from Indiana and his committee, we have no intention of trying to implement the Kyoto Protocols before they have been thoroughly researched, thoroughly explained and thoroughly voted in the Senate. This amendment by the gentleman from Wisconsin (Mr. OBEY) makes this clear. But it is not sensible to prohibit the government agencies, that should be doing research, that should be educating themselves and the public, from doing that.

As a result of the hearings in that subcommittee, two things have become clear: One is that some of my colleagues are under the mistaken impression, I think, that they are, in fact, Members of the other body and it is going to be this group that actually ratifies the Kyoto Protocol. And aside from that overly generous interpretation of their role, they are also convinced that the protocol is going to be ratified tomorrow.

I think we all know that nothing could be further from the truth. We all understand the Kyoto Protocol is not going to be ratified tomorrow. We all understand that there are serious issues and concerns with its content and its intent, and that we need to explore that thoroughly and that nothing should be done to implement that protocol until the Senate, if ever, should ratify it and move forward.

But the language contained in the committee report for this bill prohibits the use of the funding from being used to develop, propose, or issue rules, regulations, decrees, orders for the purpose of implementation or in contemplation of implementation of the Kyoto Protocol. The report directs the Environmental Protection Agency to refrain from conducting any educational programs that promote policies that could be used to meet the emissions requirement called for in the protocol.

Mr. Chairman, I hope we all can agree that that is overly broad and potentially dangerous. Legitimate noncontroversial practices exist, or should exist, to improve energy efficiency and reduce emissions and pollution worldwide. We should all be committed to these goals. I am concerned, however, Mr. Chairman, that this language would thwart those efforts.

Reliable estimates show that the annual global market for energy efficient products and services is now about $80 billion, and that amount is expected to increase to $125 billion by the year 2015. This new technology is rapidly becoming one of our country's most effective generators of business, since small businesses can reap the benefits of available research and development assistance, such as the energy efficiency program supported by the Climate Change Technology Initiative and the Partnership for the New Generation of Vehicles.

That said, Mr. Chairman, access to advice and information on these programs and energy efficient products and services is imperative to create more small business and generate more jobs, which is something we should all be working to accomplish. Here is the catch, however, Mr. Chairman. The catch is some of these programs may also reduce greenhouse gases. And we all know that reduction of greenhouse gases was a part of the Kyoto Protocol's direction. But the language in the bill forbids the EPA from conducting any educational informational programs which small businesses rely on to take advantage of energy efficient technologies.

How can some of our colleagues reconcile this disparity? How can we tell our small businesses that we have founded these programs to help them utilize and benefit from energy efficient technologies, but we are not going to give them the information on how to expedite those efforts through outreach and educational programs because they happen to also promote Kyoto Protocol policies?

The Obey amendment would clarify this disparity and allow the EPA to continue the educational outreach and informational seminars that are already authorized by law. But it should not allow any funding to be used solely for the purpose of implementing the Kyoto Protocol, and I think it does not do that. This will allow small businesses and other entities to continue to benefit from the advice and information on energy efficiency, which will help them expand and grow in the long run.

Adoption of the amendment is imperative if we are to assure that the current EPA programs that have benefitted the economy and the environment are not jeopardized merely because they may also reduce greenhouse gases.

I urge all my colleagues to support the Obey amendment.

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

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

Mr. LEWIS of California. I appreciate my colleague yielding, Mr. Chairman, and I asked for the yield simply because I agree very much with the gentleman's statement. I was inclined to accept this amendment in the initial stages, but because some of our colleagues are concerned about what the language actually means, there is reservation.

Nonetheless, I do intend to vote for this amendment and I would urge my colleagues to support it.

Mr. TIERNEY. Reclaiming my time, I thank the gentleman very much.

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

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

Mr. STOKES. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me be very frank about this issue. I happen to believe that there is a severe problem with global warming. I am no scientist, but I think that there is a significant problem. I do not know what the correct measures are to deal with that problem.

I think that the most serious environmental problem we face in the long term is probably climate change due to greenhouse gases, and if that trend is sustained, there is no question that our conifer forests, within a few generations, will no longer be in this country. They will be residing in Canada. And there is no question that if the trend continues the grain belt of today will turn into the dust belt of tomorrow.

The Kyoto conference was meant to try to discuss what the world ought to do about that. In my mind, the product that came out of Kyoto was flawed. And because it does not deal with what China and other major Third World polluters contribute to the problem, I have great doubts that that protocol will be ratified until it is changed. That does not mean that we do not have an obligation to avoid extreme reactions in the meantime.

I think when it comes to gagging the ability of the agency to even conduct educational seminars to provide not advocacy but explanation of the underlying issues, I think that is not only a right of the agency, I think they would be negligent if they did not. And I think that a Congress that did not allow them to do so would be in craven supplication to special interests in this country. So that is why I offered this amendment.

Those of my colleagues who know me know I often quote from my friend Archie the cockroach. Archie was a poet who died and came back to life in the body of a cockroach. He lived in a newspaperman's office. He would often write little messages which would appear in the newspaper the next day. He would dive from the carriage of the typewriter onto the keys and type his little messages and they would appear the next day.

□ 1630

He wrote something which is I think appropriate to this entire debate. This is what he said: "America is a paradise of timberland and stream, but it is threatened because of the greed and money lust of a thousand little kings who slash the timber all to hell and will not be controlled and change the climate and steal the rainfall from posterity."

Now that really is what this issue is all about. My amendment does not seek to allow the agency to lobby anyone. In fact, I would be offended if the agency did, because I do think that Kyoto Conference needs substantial repair before it is considered for modification.

But this Congress, which pretends it is interested in freedom of speech, when it protects the ability of big business or big labor to contribute hundreds of thousands of dollars, indeed millions of dollars in independent expenditures to congressional campaigns, when they pretend that they are protecting freedom of speech because they will not put reasonable restrictions on the ability of special interests to buy this House, for them to then pretend that somehow it is legitimate to say that an agency charged with the responsibility of dealing with the environment cannot even provide educational material and activities to its public, I think that is going a real stretch. That is why I have offered this amendment, and any rational view of that amendment would require its adoption.

Mr. STOKES. Mr. Chairman, reclaiming my time, I support the Obey amendment and I urge my colleagues to support it.

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

I rise in support of the Obey amendment. But more important than that, I would like to make a small contribution to the better understanding of global warming.

I have been involved in this question of global warming, believe it or not, for the last 20 years. I attended some of the first conferences amongst the scientists who thought that there were signs of global warming. They were looking, of course, at the rising percentage of CO-2 in the atmosphere, and other similar indicators which has been measured for over 100 years, and they were trying to correlate those indicators with global temperature variations.

Now, this is not an easy thing to do, and anyone who tells us that there is absolute evidence that global warming is an established fact is probably misinformed or deliberately trying to deceive us. There have been occasions within the past few hundred years in which, because of other factors than human intervention, there was actually global cooling. There was a "little ice age" just a few hundred years ago, and we could conceivably have another "little ice age" in the future.

But most scientists accept the fact that we are in a situation where human intervention in the climate of the globe is causing some increases, and they want to understand those increases. If it is possible to quantify the changes, scientists want to do so. If it is possible to have some effect on the changes they obviously would like to do so.

Nobody can exactly predict the effects of global warming. It may be that the U.S. Wheat Belt will move to Canada, and the Canadians will be tremendously benefited. It may be that the wheat production of central Asia, for example, and the former Russian Republic of Georgia, will move to Siberia. The Georgians may not want to move to Siberia, but the wheat production might remain the same. This is a very delicate and difficult problem to analyze, and I do not like to see us trying to do that on the floor of the House, because we probably will not succeed.

What I do want to see us do is to better understand this problem, and take prudent steps to do whatever we can reasonably do to solve the problem. Now, one prudent step we can reasonably take is to be more efficient in our use of energy. It makes our industry more competitive and more productive when we do that. It also slightly decreases the chance of global warming, the impact of global warming, if it is due to the inefficiencies of our industrial system. Generally speaking, the large production of CO-2 reflects inefficiency in the industrial system. So there are prudent things that we ought to be doing.

Now, I feel that we should not be trying to implement the Kyoto Protocols if we have not signed them. I agree with what has been said on both sides with regard to such implementation. I think it would be highly imprudent to so curtail the agencies of the Government that they could not inform the public as to the facts of matters within their jurisdiction. If we move in that direction, we will soon be reaching the point where we will say do not do any more research on global warming, do not try to understand what is actually happening, even though, as I say, we have been doing such research for the last 20 years.

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

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

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding.

I think he heard my comments earlier that the chair is going to support this amendment. But I must say that I do have some understanding of the reservations by some on both sides of the aisle, I assume because this is an agency that has a tendency to have a preestablished notion as to the way the world works and as a result they go about trying to make sure that everybody understands that they are right. And that is not exactly the way science works. So that is the reservation.

Mr. BROWN of California. Mr. Chairman, I presume that the gentleman from California (Mr. LEWIS) is trying to hint to me so that I should not beat this subject to death so we can move on with his bill. But I am very deeply concerned that we progress in terms of understanding, even if we do not always in terms of legislation.

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

Mr. Chairman, I think that Vice President Gore has demonstrated significant and important leadership on this topic that has far-reaching consequences for our generation, for future generations, for us not just as Americans but as citizens of this one planet.

As I have listened to some of this debate, I have become convinced that perhaps this very debate and some of the comments that have been made during it make the strongest case for the Obey amendment that we really do need much more education.

The Obey amendment is indeed a modest step forward. It does allow for some flexibility, and I would hope that it allows for more than just more talking on this subject. We do need to begin to start looking at some solutions to this problem, not just to talk about how severe the problem is but to actually begin to do something about it.

Where I come from down in Texas, it is at this very moment sizzling in the shade. We got our typical Texas August about the beginning of May this year, and it has stayed that way. Many regions in our State have had triple-digit temperatures now for almost 3 weeks in a row. Eighty people have already died from the heat just in the State of Texas. And we have a lot of other folks down there that are concerned that our fields will burn, they are already burning; that our cedar breaks will catch fire, just like the ones over in Florida. And we have, of course, also felt more than most other parts of the country the severe impact of looking out at the sky at noon and not being unable to see the sun or anything else because of all the smoke that has filtered up as the rain forests of Mexico have burnt in some of the driest conditions that that area has ever faced.

Meanwhile, the scientific data is mounting that at least a significant contributing factor is changing climatic conditions or global warming, and that the planet is getting hotter by the year.

What a very strange time for this Congress, as these conditions exist, to be enacting what would essentially be the "Mandatory Ignorance of Global Warming Act of 1998." The language, as originally proposed, seemed to tell the folks that are involved in environmental protection for this country, "do not even think about global warming," a little like those parking signs we see "do not even think about parking here."

Well, the subject seems to be, do not even think about global warming or anything we can do about it. It goes far beyond the language necessary to have the very legitimate debate over the precise effect and cause of global warming that the gentleman from California just referred to.

Rather, the approach of this language, as originally proposed here on the floor of the Congress, seems more consistent with redesignating our national bird from the eagle to the ostrich. Because they really are proposing to bury our heads in the sand, as the thermometer keeps counting for a rise in temperature, instead of trying to look at solutions to this problem.

I have been interested to hear people suggest that we need to focus only on America and complain about these other countries that are not participating? Unfortunately, some of the same people who have tried to obstruct in every way how this country deals with the global warming challenge went over to China and to other countries and urged those countries not to participate on this entire problem.

So it is a little bit of a conflict that they say they want to deal with this whole global warming issue in a constructive way that everyone ought to be a part of the solution, as indeed every country should be a part of the solution, and yet at the same time they were trying to twist arms and influence opinion makers abroad to keep them out of a global solution with reference to this whole matter.

I do not believe that we have to wait until the glaciers melt or until the fields and the forests are burnt or until more and more people have skin cancer to begin to study and look for solutions to deal with this global warming challenge. There are many responsible corporations who feel that way, too. And without Government involvement to any significant extent, they are already out there working to try to find a way to reduce greenhouse gases.

I believe we ought to provide them incentives, that we ought to encourage their activities to address this challenge, that recognizes that while we have 4 percent of the world's people, we are producing 25 percent of the greenhouse gases in this entire planet. I believe we have some responsibility not just to be a world follower but to be a world leader. To be a world leader, we, at a minimum, need to continue to focus on educating our own people, on educating the world about the challenge and not following the path of "know-nothing-ism" that was originally proposed in this bill.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DOGGETT) has expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 1 additional minute.)

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

Mr. DOGGETT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would ask the gentleman, does he think we might get more votes for this amendment if we move this debate from the air-conditioned Chamber today to the steps of the Capitol?

Mr. DOGGETT. Reclaiming my time, well, we finally in the last couple of days have here in Washington the kind of weather that started out in Texas and much of this country back in May, the kind that leaves people sweltering. And while we cannot say every bit of that is the result of global warming, we do not have to wait for Alaska to have the kind of weather that we are having out here on the lawn at the front of the Capitol today or the kind that has disturbed the people of the South for the last several months before we begin to address this problem.

So I am pleased that my colleague, at least through this amendment, will allow a little education perhaps to the Members of this body and certainly the American people about the gravity of this problem. But I would hope that eventually, perhaps as we work through the process on this bill, that some of the other restrictions that have been placed in this particular appropriations act bill would also be altered, because we need the greatest flexibility to look at this problem and provide the leadership to resolve it.

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

The amendment before us is one that everyone ought to support. It is common sense. The gentleman from Wisconsin (Mr. OBEY) is saying that, whatever limitations we place on the Environmental Protection Agency or the Council for Environmental Quality, we should not say to them they cannot conduct educational outreach or informational seminars.

Can my colleagues imagine, in the face of a global warming potential threat, we would say to the agencies that run our environmental policies, they cannot hold informational seminars, they cannot have educational outreach? That is absurd. That is absolutely absurd to have that kind of restriction. Yet that restriction is in the bill that is before us. And the gentleman from Wisconsin (Mr. OBEY) is trying to reach that part of the bill.

But the bill before us is even more extreme than just that, because the bill before us would stop the Environmental Protection Agency and the CEQ from looking at how to deal with the problem or developing some proposals.

□ 1645

What those who supported the language known as the Knollenberg provisions say they were trying to do was that they were trying to stop the administration and any of these agencies from trying to implement a treaty on global warming until that treaty has been ratified, as is required, under the Constitution by the Senate of the United States. I accept that. No one is disputing that they should not implement a treaty that has not been ratified. But to say they cannot hold educational outreach, informational seminars or develop proposals is like telling

them, "Don't think about this issue. Put your head in the sand. Don't even think about this issue. We don't want you to do anything until we ratify the treaties, if we ever ratify a treaty."

If that treaty came up, and I do not think it will be proposed in its present form, but let us say the administration has worked out a treaty on global warming, this is a threat to our planet, many nations must be involved in stopping this threat, and they wanted then to get ratification of an agreement. The first question any reasonable Senator would ask is, "How do you plan to implement this? What ideas do you have for dealing with the problem of greenhouse gases that cause global warming?" And if we do not change this bill, the EPA and the CEQ, the agencies that deal with these problems for the United States Government, could not even be thinking about how to implement any kind of treaty or strategies that we might want to undertake.

The Obey amendment is one that everybody ought to vote for, but it is not enough. We have got to strike the rest of the language in this appropriations bill that stops any kind of thinking through a strategy, developing a way to deal with greenhouse gases and the climate change problem. I think everybody will support this Obey amendment. Maybe a few people will vote against it. But do not feel that in adopting this amendment we have solved the problems that this legislation that is before us has created, because we must go further.

The gentleman from Pennsylvania (Mr. GREENWOOD) is going to offer an amendment shortly. That amendment would be to untie the hands of the Federal agencies when they look at the global climate issues. As I understand his amendment, he will also agree not to allow any implementation, implementation or putting into effect any proposals until there is ratification of a treaty. But he would at least allow the agencies to think through the appropriate strategies.

I support the Obey amendment. I will support the Greenwood amendment. I think we need to strike out of these funding bills language that stops government from enforcing the laws on the books and developing strategies for a problem that none of us thought about maybe 5 years ago but are starting to worry about when we hear leading scientists in the country tell us that global warming is not some theory, it is a reality that we must take seriously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KNOLLENBERG. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 198, not voting 10, as follows:

[Roll No. 332]

AYES—226

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rivers
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Shaw
Shays
Sherman
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Solomon
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Upton
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wise
Woolsey
Wynn

NOES—198

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Foley
Fowler
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Knollenberg
LaHood
Largent
Latham
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Radanovich
Redmond
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—10

Brady (PA)
Ford
Gonzalez
Hyde
Lewis (GA)
Markey
Serrano
Velazquez
Yates
Young (FL)

□ 1711

Messrs. PAPPAS, HERGER, and Mr. INGLIS of South Carolina, changed their vote from "aye" to "no."

Messrs. MILLER of Florida, GANSKE, COSTELLO, GALLEGLY, VISCLOSKY, McHUGH, KOLBE, and FOX of Pennsylvania changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word and probably for an extended period of time will do so.

Mr. Chairman, by way of informing the Members, it looks as though we will have at least an hour or so before we have a vote, just so that those who are here and wondering how quickly we will vote will be informed of that.

Mr. Chairman, I wanted the Members to know that, before we continue work

on the specifics of the Fiscal Year 1999 VA–HUD and Independent Agencies Appropriations bill, I want to take just a few moments to recognize the outstanding work of my good friend and the man who will always, in my mind's eye, be my chairman, Congressman LOUIS STOKES.

As most of my colleagues know, this will be the last VA–HUD bill the gentleman from Ohio (Mr. STOKES) and I will have the privilege of working on together. After 30 years in Congress and over 28 years on the Committee on Appropriations, LOUIS has decided to pursue other interests.

LOU STOKES clearly exemplifies everything that is good about the Congress of the United States and, indeed, everything that is great about this wonderful country in which we live.

From his early days growing up in public housing through his days of college and law school to his work as an attorney on some of the most important legal issues of our time to his service in the Congress which began in January of 1969, LOU has served with courage, with honor, with dignity, and with compassion.

He has represented his district with the finest tradition of service. I must tell my colleagues that my life has been enriched because of the friendship I have shared with LOU STOKES and his wonderful wife, Jay, for this fine American has made all the difference for me in working in this House.

□ 1715

I, for one, will miss LOU STOKES, but I dare say that this institution will miss him even more.

Mr. Chairman, I would be happy to yield to my colleague, the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Let me say that people come and go, and they either add or subtract from the places in which they work, but now and then somebody comes to this place who does his work, learns his craft, who demonstrates total dedication and produces service that, indeed, is worthy to be remembered.

LOU STOKES has many achievements. He served as chairman of the Committee on Standards of Official Conduct, he served as chairman of the Assassinations Committee, after the assassinations of Martin Luther King and Robert Kennedy; he served as chair of the Committee on Intelligence, he served on the Iran Contra Committee, he served as subcommittee chairman of this subcommittee, and, I think his most valuable service has come on a subcommittee on which he has never been chair, and that is the Subcommittee on Labor, Health and Education. It is there that I think the gentleman did the most to demonstrate that he has never forgotten his humble beginnings, unlike many other people that we often see in this society.

I referred to my good friend Archie the Cockroach once earlier today, and I would simply refer to him again. There is a piece in this book that I think sums up LOU STOKES' service to this House. It says:

The lordly ones, the haughty ones, with supercilious heads held high;
The up stage stiff pretentious ones, miss much that meets my humbler eye;
Not that I meddle perk or pry, but I'm too small to feel great pride;
And as the pompous world goes by, I see things from the under side.

I think LOU's entire career here demonstrates he understands that. He understands there are millions of people in this country who are stuck with seeing life from the other side, and in a city of 1,200 suits, LOU has never forgotten the people who wear work clothes.

I think that he has also demonstrated an interest far beyond just the interest of the poor. In a me-first era, he has remembered the answer to the question of Cain: "Am I my brother's keeper?" must very often be yes.

So I think in almost every way I can think of LOU STOKES' service here is a daily affirmation of the Judeo-Christian ethic which underlies our society. I want to say on behalf of all of the people in this country who need champions in Congress, even if they never know that they have them, I want to thank LOU STOKES on behalf of each and every one of them and on behalf of every Member in this House for the way in which he has graced this House with his years of service.

Mr. CLAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me first of all thank the gentleman from California (Mr. LEWIS) for providing this opportunity to pay tribute to our colleague on this occasion. Perhaps the best and most succinct summary of who and what LOUIS STOKES is about can be found in a statement appearing in a Cleveland newspaper 10 years ago when Mr. STOKES was celebrating his two decades in elective office. That article stated, "This 20-year milestone in the United States Congress gives us pause to reflect on LOU STOKES, the man, a legend in the making, as he continues to make his mark in history. He improves the quality of our lives by example and effort."

Mr. Chairman, I want to acknowledge the friendship between Mr. STOKES and his wife Jay and my wife Carol that goes back 30 years. We came to this Congress on the same day 30 years ago, along with Shirley Chisholm, and the three of us, who joined with six other African American Members, really made history that day, because that made nine of us in the Congress, and that was the most black Members of Congress that had served together at one time in history.

STOKES said to me shortly after that that because this was historic, that perhaps we ought to band together to really make a difference. As a result of his talking with myself and us talking with others of the nine, we formed the Congressional Black Caucus. And in this 30-year period, that caucus has made a difference. But LOU STOKES has definitely made a difference, and, as a result of that difference, all of us are proud today and all of us are better off.

STOKES has made a big difference. He has put his staff, his imprimatur, on landmark legislation, which altered and affects the lives in dramatic ways to millions of citizens that have benefitted by that legislation.

STOKES' 30-year career in Congress is the most compelling evidence, Mr. Speaker, available of why we should not have term limits. Only a few, in fact, only 120 Members of this body in 200 years, have served 30 years or better. So STOKES is in a distinct, unique class of people. In fact, in the 200-year history of this Congress, only 10,000 Members have served in this body. So it is an honor for him to be in that elite group of 115 distinguished individuals.

I do not think that anybody ought to limit the number of years that a person can serve here if his constituents want that person to represent them.

Mr. STOKES, as I said earlier, has become a legend, as it was predicted. He has contributed in a most meaningful way to enhance the image and importance of this institution. Those contributions have been exceptional, singular, uncommon, as has been related by the ranking member of this committee. STOKES has been the author of numerous education programs, including the TRIO program.

Mr. Chairman, in conclusion, let me say the term "power" is frequently used loosely and without knowledge of its real significance. Seldom do the users of the expression bother to contemplate that all sources of power are limited inasmuch as they are to some degree dependent on other sources of power. But for LOU STOKES, some sources are more real, more independent, and more indispensable than others. He has often said that the two most devastating kinds of power are economic and political, asserting that if you have one, you are respected, if you have both, you are feared, but if you have neither, you are exploited.

STOKES comprehends the theory of power and its imposing function. He has successfully exercised his power on the House Committee on Appropriations to achieve a degree of equitable balance between the have's and the have not's, and I am proud to say that I am counted amongst his friends.

Perhaps the best and most succinct summary of who and what LOU STOKES is about can be found in a statement celebrating his two decades in elective office. It stated:

This twenty-year milestone in the United States Congress gives us pause to reflect on

Lou Stokes, the man, a legend in the making. As he continues to make his mark in history, he improves the quality of our lives by example and effort.

The one person who has stood next to the Congressman in this noble endeavor for considerably more than this 30 year stretch, is his lovely charming and understanding wife, Jay Stokes. She has been the pillar of strength behind his uncharted excursion into the field of law and untiring venture into the weightiness of politics. She has raised their four children—Shelly, Chuck, Angie, and Lori—and managed to do it with style and grace.

STOKES BROKE GROUP IN THE LEGAL FIELD BEFORE CONGRESS

In overcoming his impoverished beginnings, STOKES went on to excel in the Congress and in the legal field. He is held in high esteem by his associates in both professions. Before election to Congress, he was a celebrated practicing attorney in Cleveland, once arguing before the Supreme Court the landmark "stop and frisk" case of Terry vs. Ohio which is taught in every law school in the country.

STOKES AND THE USE OF POWER

The term "power" is frequently used loosely and without knowledge of its real significance. Seldom do users of the expression bother to contemplate that all sources of power are limited inasmuch as they are to some degree dependent upon sources of power. But for LOU STOKES, some sources are more real, more independent, and more indispensable than others. He has often said that the two most devastating kinds of power are economic and political, asserting that "if you have one, you are respected; if you have both, you are feared; but, if you have neither, you are exploited."

STOKES comprehends the theory of power and its imposing function. He has successfully exercised his power on the House Appropriations Committee to achieve a degree of equitable balance between the "haves" and the "have-nots".

STOKES' CONTRIBUTION TO EDUCATION

While STOKES has vigorously pursued an agenda that respects and appreciates the vital needs of the nation, he has not ignored the critical problems hampering the growth and prosperity of the black community. He has implemented new ideas and promoted a new direction in the areas of legislation dealing with the education of the African-American population.

STOKES has used his position on the Appropriations Committee to increase funding for Head Start, Safe and Drug Free Schools, Teacher Training and Vocational Education. Recognizing the critical need to prepare students for a highly technological world, he secured federal funds to support and strengthen math and science programs.

STOKES' SUPPORT FOR BLACK COLLEGES AND UNIVERSITIES

STOKES has manifested critical leadership in prodding the House Appropriations Committee to expand its funding for Historically Black Colleges and Universities (HBCUs). Through his role as a seasoned member of the committee, he has used his authority with decisiveness in protecting financial securing of these institutions which are vitally important to higher education of the African American populace.

STOKES INFLUENCES FUNDING FOR HEALTH CARE

Congressman STOKES is a respected champion on the health care front. He has utilized his assignment on the House Appropriations Committee to sponsor critical health care issues. As a result of his strong leadership, funding for diabetes, cancer, heart disease, and AIDS has significantly increased.

Since 1977, STOKES has chaired the Congressional Black Caucus Health Braintrust. This policy-making body has been effective in helping to define and to shape the nation's health agenda. Under STOKES' leadership, the CBC braintrust has fought for improved health care delivery for minorities and under-served populations; enhanced education and outreach activities; and increased minority representation in the health professions, including biomedical research.

STOKES has been instrumental in promoting community health interests, increasing minority manpower in health care professions, and providing federal funds for the enhancement of programs at medical schools.

STOKES RECOGNITION FOR LEADERSHIP

Congressional leadership has bestowed superb accolades on STOKES by having named him to prominent and prestigious positions of heady responsibility. He was appointed by Speaker Thomas P. "Tip" O'Neill on March 8, 1977 to chair the committee investigating the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr.

Speaker "Tip" O'Neill also named him to chair the House Committee on Standards of Official Conduct (Ethics Committee). And in February 1983, STOKES named by Speaker Jim Wright to chair the Select Committee on Intelligence.

STOKES' VISION IN FORMING CBC

The founding of the Congressional Black Caucus is demonstrative of the vision shown by STOKES almost immediately upon his arrival to Congress. He wasted no time seeking to establish a forum for articulating the concerns of Black Americans. He, along with several others, decided that becuase of the nearly equal ideological division in the House between liberal and conservatives—Democrats and Northern Republicans allied against Conservative Republicans and Southern Democrats—the nine black members of the House of Representatives comprised a voting block sufficient to constitute the balance of power.

Members of the CBC were determined to seize the moment, to confront racial injustice, to fight for economic equity and to raise other issues long ignored and too little debated. STOKES gave extraordinary leadership in the formative days of the movement and was elected the second chairman of the Caucus in 1972.

STOKES CHAIRED HEARINGS ON THE ASSASSINATIONS OF PRESIDENT JOHN F. KENNEDY AND DR. MARTIN LUTHER KING

STOKES' objectivity is demonstrated by his leadership of the assassinations committee. The Committee identified four main issues to be investigated:

1. Who was or were the assassin(s) of President John F. Kennedy and Dr. Martin Luther King, Jr.?

2. Did the assassin(s) have any aid or assistance either before or after the assassinations?

3. Did the agencies and departments of the U.S. Government adequately perform their duties and functions in protecting the two slain leaders?

4. Given the evidence the committee uncovered, is the amendment of existing legislation appropriate?

STOKES oversaw the 18-month investigation which ended in December 1978 with twenty-seven volumes of hearings and a final report containing recommendations for administrative and legislative reform. He performed admirably and impressively at the nationally televised committee hearings.

A DOWN TO EARTH SIDE OF LOUIS STOKES

Although STOKES is a very serious minded person, there is a lighter, more common side to the legislator. In addition to having a keen sense of humor, he often gets involved in humorous situations. One such instance occurred one night when he, Jay, Carol and I were dining at a Thai restaurant in Maryland. After carefully perusing a menu that was not familiar to any of us, we all ordered something different. When STOKES had consumed about half of his order, he observed that the meal did not seem like the one he had ordered. Complaining to the waiter, he was told that he was correct. The waiter said that they were all out of the meal STOKES had ordered and this one was a replacement.

Mr. RANGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to join in thanking the gentleman from California (Mr. LEWIS) for displaying his friendship and giving us an opportunity to share in that in talking about our colleague, LOUIS STOKES.

Mr. Chairman, I came just two years after Mr. STOKES came to the Congress, but I think all of us when we first arrive here, we think that anyone that was here before us just knows everything about everything, and it does not take too long after being here to find out that they do not know.

LOU STOKES was an exception to that resume, as related to me, because he continued to be a senior in terms of compassion, in terms of class, in terms of intellect, in terms of working so hard each and every night to help so many people, that even though it was only 2 years in terms of leadership, it was decades, because he came from a family that has known so little, and yet was given such great opportunities, and instead of just enjoying it, he and his late brother Carl have given back so much to Cleveland and to this great country, and, therefore, in their way to the world.

When I hear so many people say that America cannot afford a public school system or cannot afford to subsidize, giving assistance to people, or anyone has to really do it on their own or let the private sector work its will, I said how great that is for those who have. But how much more great it is to see the compassion that a country would have to have two kids living in public housing from a family who had nothing except knowing pain and poverty, to be

able to see one to become the first African American mayor of a great city, and see the other to reach the heights, to achieve the leadership, the accolades, that LOU STOKES has in this United States Congress.

It was not just God's will, it just wasn't hard work, it was someone really giving his family a hand in public housing. It was having public schools there where hard working people would know that whatever they were denied, at least the kids would be given an opportunity. And, yes, in a country that denied so much to so many people just because of their color, there came the GI Bill when the Federal Government said it doesn't really make any difference what color you are, we will give you a chance to reach the height of your potential. And to know that we never would have had an educated Carl Stokes, we never would have had an educated LOU STOKES, unless those in the Congress that preceded us were saying why not help all Americans, because you have no idea as to the great resources and jewels that we have. And this is not that unusual when there are so many people who have given so much, but never have been given the chance that LOUIS had to give back.

LOU STOKES, you have been an example for people, white or black, Jew or gentile, in this great country of ours, because no matter what the subject is, you bring a sense of class that makes us all feel proud to be politicians, to be legislators, and to be Americans. And you leave a legacy for all of us, those like me who respond sometimes in anger, to restrain if not just because it is the right thing to do, but because we owe it to the dignity of this great House to do it.

We are going to miss you, LOU STOKES, but you have set standards for all of us to follow on both sides of the aisle. Even though you only came here 2 years before I did, to me you are a giant and you remain one.

□ 1730

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to congratulate the distinguished gentleman from Ohio (Mr. STOKES), not only for his work on this bill, but for his achievements throughout an outstanding and successful career in Congress.

LOU STOKES has served the public for many, many years, and in this Congress for 30 years. He is a lawyer, he is a veteran of the United States Army, he is a lecturer, he is a writer, he has been a chairman of many committees and a ranking member of many committees.

He has served when in the majority as chairman of the Select Committee on Assassinations, the Committee on Standards of Official Conduct, the Committee on Intelligence, and chairman of the subcommittee of this particular bill. He served, as fate has dealt him, in the minority as well. In whatever capacity he has served, he has served honorably, with good humor, and with great trust for his fellow Members of his subcommittee or his committee, and in a bipartisan fashion.

LOU is an honorable man. He has left his mark on the committees in which he has served because he has done the hard work that was necessary to do honor to this institution. In his retirement, while he leaves a void in our own committee and in this Congress, we hope that his family will gain what we lose: A gentle, solid, comfortable presence.

Over the years I have heard the term "soul" used, and I guess many would attribute their own meaning to the word. I guess if I had to give one concept to that term, I think I would attribute it to a person who enjoys life and loves his fellow human beings.

LOU, I just want to tell you that from my very distant view, the one that has become closer over the years that I have had the honor and the pleasure to know and to work with you, you have a lot of soul.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

I rise with my colleagues at this very special moment to pay tribute to the dean of the Ohio delegation, always to me our good friend Congressman LOUIS STOKES. For myself personally, and I know for every single other member of the Ohio delegation, from our great buckeye State, when we came to Congress, LOU STOKES was here. He has always been here. For us as Members, for our State, to imagine Ohio without LOU STOKES is to imagine an Ohio with a piece of its heart missing. And this particular moment of tribute is one of those moments in Congress that each of us who has had the pleasure of working and knowing this man will not forget.

Others have detailed the congressional service of our good friend, LOU STOKES, but perhaps it is important to remember that when he was elected to the Committee on Appropriations he was the first African-American ever to serve on this very, very important committee of cardinals rising to be a cardinal in his own right.

I think as a woman having had to overcome some of the barriers in my own life, I can somewhat identify, but certainly not completely, with what that must have felt like. I think what has always amazed me about LOU STOKES is what a gentleman he has been. I think the kind of elegance with which he carries himself, the kind of elegance that causes his grandchildren to really smile at him with open eyes, is a quality that all of us truly admire and wish that we had ourselves.

I think if we look at all of the programs over which he has had jurisdiction within the Committee on Appropriations itself, whether it was the National Institutes of Health and the types of studies that are done there to recognize the types of illnesses that afflict all segments of our population, or whether we are talking about who should go on to college and who has the opportunity to become all they can be, or if we are talking about in fact the history of the U.S. military and the complete renovation of sections of Arlington Cemetery, long before the movie glory ever came out, LOU STOKES was there.

Certainly, the people of Cleveland have every right to be proud that two of their sons helped change the history of this country.

Now, LOU and I share a great affection for our families, and particularly our mothers, and I guess my one regret in knowing LOU is I never got to know his mother and Carl's mother. Because what a mother she must have been to raise those two boys in the shadow of inner city Cleveland. He took us by the housing project one day when we were touring Cleveland on a brownfields tour, and to imagine that that household, that home would have brought this man to Congress at the time that he came, the time that he came. The wounds in America of race will not heal over in my lifetime, but I know that I have met someone who has helped heal those wounds for our country.

As I have said in other venues and I will say here for the record, I think one of the memories that I will have of LOU that I never expected to have, came from one of our quiet subcommittee meetings one day in this particular committee, Veterans, HUD, NASA, NSF, EPA, when we were listening to the witnesses from Arlington Cemetery who were bringing in the books, the ledgers of those who had served our country and were buried in Arlington, and they brought in these dusty volumes.

I remember opening them up, and I was sitting next to Chairman STOKES at that time, and he opened up to one of the pages and we began to read, and we looked in such-and-such a section and at this particular plot, at who was buried. And the ledger read, no name, no name, no name. Those who had fought in the Civil War who for all of history had remained unnamed simply because they were people of color. Through his efforts, in fact, that section of Arlington has now been restored and we have recently witnessed a major statue unveiling in this city and all kinds of national programs and so forth, but LOU STOKES was there at the head of the queue long before the rest of the country was.

I know that we in Ohio who have a history of trying to remember the underground railroad know that through his efforts here as we begin to save that history and enshrine that history

for all time, the 21st century will in fact be different from the 20th and the 19th, and so as just one buckeye and one member of this great Congress, I want to say to my good friend, LOU STOKES of Cleveland, thank you. Thank you on behalf of this Congress; thank you on behalf of the people of the State of Ohio that you have done proud here. Thank you on behalf of your mother and your brother for serving our country when you could have done so many other things with the gifts that life has given you. It has been an honor to serve with you. You have taught me much. You will always be the Congressman from the great City of Cleveland.

Mr. WICKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is work to be done tonight and we will get to it, but I think it is important that we take the time tonight to honor LOU STOKES. I speak as a junior member of the Committee on Appropriations, and I speak tonight symbolically from the other side of the aisle to pay tribute to LOU STOKES and the wonderful way that he has worked with members of the majority and minority parties in this House and the great example he has set, and to say that it has been a genuine pleasure to serve on the Appropriations Committee with LOU STOKES.

I have served on two subcommittees with Mr. STOKES, Labor-HHS and VA-HUD, and I have heard tributes at the subcommittee level, at the full committee level, and I have listened with interest and with admiration and with agreement. I have heard him called by many descriptions, Mr. Chairman, and I subscribe to them all: Mentor, role model, a worthy adversary from time to time, a champion for his State and for his district, and a champion in every sense of the word, a classic, and a friend.

But, Mr. Chairman, where I come from, one of the most supreme compliments that can be paid to a man is to call him a southern gentleman, and in thinking about this I spoke with Mr. STOKES' other colleague (Mr. KUCINICH), also from Cleveland, and we decided that if one looks at the map just right, LOU STOKES comes from southern Cuyahoga County, and he indeed qualifies as a southern gentleman.

As a matter of fact, the gentlemanly conduct of LOU STOKES embodies those qualities that are universally admired, and that I have admired so much during the two terms that I have served with him on subcommittees. LOU STOKES never raises his voice. He never rails at individuals. He is effective. He gets the job done, and he has gotten the job done for his point of view, but always a gentleman in every sense of the word.

Henry Wadsworth Longfellow said, "Lives of great men all remind us we can make our lives sublime, and departing, leave behind us footprints on the sands of time."

Well, LOU, you are departing this House, but I do not necessarily think you are departing the scene, and I certainly hope not. I have a feeling that there is much more service to this country, to society and to your fellow man, although I do hope perhaps you have a chance to spend a little more time with your family. I salute the gentleman from Ohio. I admire him. LOU, I wish you the best of luck, and Godspeed in your next endeavors.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I would like to pay special thanks to the chairman of our committee, the very distinguished and gracious gentleman from California (Mr. LEWIS), for making available this time here tonight to pay special tribute to another very fine member of this institution.

Mr. Chairman, I rise to pay special tribute to the gentleman from Ohio, the ranking member of our subcommittee, its former chairman, and a true pillar in this House.

As other speakers have noted, this is the final VA-HUD bill that Mr. STOKES will help bring to this body. That saddens us all, because when LOU STOKES retires at the end of the 105th Congress, after three decades of faithful service to the people of the Cleveland area, this institution will lose one of its most passionate and principled representatives.

LOU STOKES is a man of keen intelligence and solid integrity who has blazed many new trails and risen to key leadership positions in this House. As chairman of the Congressional Black Caucus he dedicated himself to advancing policy issues critical to minority communities. As chairman of the House Select Committee on Assassinations he completed historic investigations into the deaths of President Kennedy and Dr. King. As chairman of the Committee on Standards of Official Conduct he handled the most delicate of cases with unfailing fairness. As chairman of the Committee on Intelligence, he helped shape policies vital to our national security. And as chairman and now ranking member of our VA-HUD subcommittee, he has exhibited a deep understanding of complex issues and has been extremely responsive to the interests and concerns of each department, each agency, each subcommittee member, each member of this House, and each constituency group within our jurisdiction. Clearly, LOU STOKES has been given a diverse group of special assignments.

But there is a common thread, Mr. Chairman. They all serve as a measure of the trust and respect, real respect in which he is held by the Members of this body. He is held in equally high regard at home. The people of Cleveland feel a deep gratitude for LOU STOKES' lifetime of service. They know that he has always fought for their best interests with great energy, skill, and far more often than not, success.

On a personal level, Mr. Chairman, I am deeply grateful to have had the opportunity to work with LOU STOKES over the years.

□ 1745

In doing so, it has been my honor to carry on a family tradition. My father and LOU served together for many years in this House, and my father has always held him in the highest esteem. So do I.

I deeply appreciate the counsel, support, and friendship that he has accorded me. LOU STOKES is a bright, skilled legislator, a hard-working representative, a great friend, and along with his lovely wife Jay, a proud parent and grandparent.

In his words and deeds he is a complement, a tribute to this House and he will be missed, while at the same time his influence on this institution will be indelible.

Best wishes to you and Jay, LOU, as you leave this House for other adventures.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I may have the distinction of knowing LOU STOKES longer than any other Member of the Congress, one that I am proud of. I am closely connected to his family, and he mine. Detroit and Cleveland have always had a great interrelationship.

So, I have had the privilege of knowing the family. Jay and his late brother Carl, and his two daughters, a judge and a TV anchor. He is now a grandfather, of course. And then, of course, his son, Chuck Stokes and Trudy are telecommunications and media people in Detroit.

One of my worst recurring nightmares is that his son might choose to run for Congress in Detroit instead of Cleveland, where he ought to have run. I should not say that I have stopped having them, because he still there and I am still there.

LOU, this is a moment of joy and sadness for all of us. I remember the first day LOU got to the House and he made me feel real good. Not because I campaigned for him, which was not necessary at all, but because he told me the first bill he introduced was the Martin Luther King, Jr. holiday bill. Then he said, "Do you think it has a chance of really passing?" And 15 years later we found out that it did.

LOU, I thank you for your steadfastness across the years. It has been a very pleasant friendship. We have worked together on any number of activities. But to me, the issues that you have raised in connection with health, with the minority health issues, have always stuck with me more than any of the outstanding things that have you done. You have pioneered the whole notion of us understanding that there was

a different dimension of health needs for those who were not affluent or able to buy insurance.

The work that you did with the African-American medical universities should be lauded for many minutes more than I am just briefly referring to them. They all know what you have done. On those medical campuses, you were able to see they got the much-needed financing and support and resources and also building activity as well, so that they could continue to put African-American medical graduates into the general population.

Then let us not forget the work you did on the committees that investigated the assassination of Dr. Martin Luther King and John F. Kennedy. That was incredibly sensitive, controversial work and your role there as the only African-American on those committees was very, very important to me.

Mr. Chairman, it should also be mentioned that LOU STOKES chaired the Committee on Standards of Official Conduct for a number of years, and did a great job. He was also Chairman of the Permanent Select Committee on Intelligence. And so I have been pleased to enjoy this close relationship with you and Jay, the family. I hope and know that it will continue.

Finally, if nobody has said it, Attorney LOU STOKES is one of the few Members that have argued before the United States Supreme Court in the very landmark civil liberties case of Terry and Ohio.

So, Mr. Chairman, we are losing a gifted, talented Member, a brother, and a person who understands government. And I am sure from whatever position he chooses to move to, he will continue to send forth the lessons that he has learned, the principles that he has believed, fought for, and worked so hard over a period of 30 years throughout the land.

LOU, we love you and we will miss you.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I played a little word association game and when I said "gentleman," the first person who came to mind in this Chamber was LOU STOKES. When I thought about "class," and how I would define class, I thought about LOU STOKES.

When I considered the concern that has been expressed in this Chamber by all of us about civility and the need we had to go to a special retreat in Hershey, Pennsylvania, I thought to myself, we did not need to go to Hershey, Pennsylvania, to learn about civility. All we had to do is watch LOU STOKES in action.

Then when I think about the humdrum life we all have. Washington, district, back and forth on the plane, traveling so much. So little time to really get involved in getting to know better some of our colleagues, which is a real shortcoming of this institution because it is made up of some of the finest people we will find any place in the world, Republicans, Democrats, liberals or conservatives. But we are all just scrambling to run back home and make that next meeting.

I said to myself, we are disadvantaged in many respects, but I have been very fortunate because very early in my career I got to know LOU STOKES and I got to appreciate all that he represents.

George Bernard Shaw said, "Some men see things as they are and ask why. I dream things that never were and ask why not." That reminds me of LOU STOKES. Because health care, education, the environment, things that really matter for all of us, he has provided leadership in.

Then I think about my own family, my personal family. My youngest daughter, Brooke, 4 years ago moved to Cleveland. I said to the distinguished gentleman from Cleveland, "Sort of help me out, will you?" And boy, he has been magnificent, always there to help to make her transition from upstate New York to Cleveland, Ohio, something very special.

She lived in his district and guess what? She supported LOU STOKES, because she said, "This guy is a guy who transcends political parties, a guy who is extra special."

I am just so mindful of the fact that this institution and this Nation are the better for the service of LOUIS STOKES. And I personally am enriched by the friendship that I have enjoyed with this great and distinguished American. We wish you well, LOU, and we will continue to rely on you for sound counsel.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a distinguished moment in my life, in that I have the opportunity to stand on the floor of the House of Representatives and give acclaim to a very distinguished gentleman. More acclaim because he is an African-American whose forefathers helped to work this country.

I am proud today. I am a member of the Subcommittee on VA, HUD and Independent Agencies Appropriations. I know firsthand the kind of work that LOU STOKES does. He is a multidimensional man. It is hard to describe this man, because he has done everything, he has accomplished whatever he tried. He is a distinguished lawyer; has gone before the Supreme Court and won a landmark civil rights bill; has been over ethics; has been over all of the things that we see people aspiring for here in this Congress. LOU STOKES has achieved it.

Mr. Chairman, he still is a humble man. He still is a man who is kind and thoughtful. He still is a man who wants to do the right thing for everyone.

African-Americans throughout this country are doubly proud of this man. They know him throughout this country not only for his work in health care, but I am sure that the life extension of African Americans in this country, he has shortened many of the diseases that have killed minorities in the past. He has extended the life span of minorities because he took a focus and saw health as being an important facet of African-Americans because they were dying, they were not being tested in clinical trials, they were not educating their doctors.

LOU STOKES took a handle on this. He still is the most humble man in this Congress. He is outstanding as far as the Nation's veterans are concerned. He is a scientist. He wants to see science advanced, technology and space, ethics, intelligence.

Many people in this Congress may not be keenly aware of this multidimensional man, but today we stand to let the world know that LOU STOKES is a cut above, a cut above most Congresspersons in that he has accomplished more and will do much more, even when he leaves this Congress.

It saddens me to see him leave because he has been a flagship for all of us. He is a flagship of this Congress, not only for the Members of the Congressional Black Caucus, but for everyone who would aspire to be a good statesperson. LOU STOKES has been that flagship.

He has authored many things that help disadvantaged people, both black and white. He has paved the way for thousands of poor people, disadvantaged and minority young people, to pursue careers in the health professions. Doctors, nurses, clinical researchers, these young people would not have had the opportunity if it were not for LOU STOKES.

He is from Cleveland, Ohio, but his influence has spread not only in this country, but throughout the world. He has opened up access. He has accommodated people who could not reach there themselves. This man has raised the consciousness of this Congress since he has been here. The level of understanding of this Congress has been raised by LOU STOKES. He has done things for America's most vulnerable citizens, those that do not have lobbyists here, those who do not have a voice here.

LOU STOKES has been that voice. Many times he has been the only voice, Mr. Chairman, the only one with the courage and the attunement to reach across the aisle or to reach to the southern gentleman or to reach to the northern liberals. He has reached across all of those people and he has touched their hearts and he has sensitized them to the needs not only of the urban poor but the disadvantaged and the poor throughout this country.

Many of us on the House Committee on Appropriations look to LOU for guidance. We look to him, I especially do, when I am about to do something rash, I look to LOU because LOU has that attunement, he can say, "Well, now, Carrie, this can be done, but this is the way it has to be done," and it is extremely important to me, Mr. Chairman, and to other Members of this House.

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He is what I call a crossover Congressperson, who works with the needs of both black and white in the Congress. Diversity is important to him. He has teamed up with our young white-haired leader of the Veterans and VA-HUD subcommittee. He teamed up with Mr. LEWIS. I am sure he taught him a lot, because the two of them go hand-in-hand. They are just like Mutt and Jeff, because they work closely together. And I am very serious when I say to my colleagues that Mr. LEWIS' attunement, I am sure some of it came from LOU STOKES. And that, to me, means a lot.

And LOU STOKES didn't do it by rabble-rousing. He didn't do it by Bogarting. He did it because he is a statesman. He is a diplomat. He does not cringe or step back from anybody, but because of this intellectual prowess, he has been able to go in places that many others cannot.

As chairman of the Congressional Black Caucus Health Braintrust, he struck the consciousness of America with respect to the need to address the disparities in minority health care, from AIDS, to diabetes, to cancer, to lupus, to smoking-related illnesses. The list goes on and on, Mr. Chairman.

As a result of Mr. STOKES' efforts, Mr. Clinton, our President, included in the budget this year so many things. He sent to Congress an $80 million fund for the race initiative on health. You know who stimulated that? Do you know who was the prime mover in that? LOU STOKES. To begin with, he has effectively closed this gap.

LOU, you took the path that is less traveled, and you did it with grace, you did it with dignity, you did it with intellect, and now you leave the underground railroad to us.

I have heard you talk about your mother. You addressed people over in HUD one day. These were people who were trying to understand the needs. LOU, you gave to the world the best you had and the best has come back to you.

Mr. FRELINGHUYSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we all have a frame of reference for LOU STOKES, and nobody could have a frame of reference as wonderful as Mrs. CARRIE MEEK'S frame of reference.

When I was in high school and college the Stokes family, and particularly the Stokes brothers, came to my attention as political and civil rights leaders. But only on the television and in the newspapers did I get to know the Stokes family. Quite honestly, I never knew that I would have the privilege of serving with one of those Stokes brothers as a Member of Congress.

What an opportunity it has been for me to serve with a remarkable man, someone who, indeed, is a role model for everyone, black or white, rich or poor, an historical figure of the greatest note. And as he said the other day, as was true with Mr. MOLLOHAN and Mr. WALSH, my father had an opportunity to serve with you in the late 1960s and early 1970s. I have been very lucky to have that privilege as the second generation of my family to serve with you.

Thank you for your friendship and for your assistance on the VA-HUD committee.

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

This is a bittersweet moment for me, because as someone who is relatively new to this Congress, I have had the pleasure of knowing LOU STOKES for 30 years, but this is the first time I have had a chance to serve with him in the Congress. And I have to tell you, LOU, that I am so grateful that I have had this opportunity, even though I have only been here for a term with you.

LOU STOKES has shown that America's progress as a Nation is measured not by what we do for the strong, but what we do for the weak; not by what we do for the the haves, but what we do for the have-nots. LOU STOKES has shown that America's progress as a Nation is measured in how we as a Nation have stood up for the rights of minorities, how we have met the test.

And throughout his career, we know that LOU STOKES has met the test in fighting for voting rights, civil rights, education rights, and housing rights. LOU, in doing that, you have helped lift up not only minorities, but you have helped to lift up majorities as well because you, LOU STOKES, have ennobled this Congress and this Nation with your public spirited consciousness, with your fight for the right, with your style and with your grace.

I am so fortunate to call you my friend and to be able to call you my colleague. LOU STOKES helped me get elected mayor of Cleveland 21 years ago and gave me the opportunity to follow in the footsteps of his dear brother, also my dear friend, Carl. And together you and I, LOU, were able to prove that in the big cities, and it has to be true in State and Federal Government as well, political power can, should and must be shared. It is essential in a democracy that political power be shared with minorities.

Rudyard Kipling once wrote about someone who could walk with kings and never lose the common touch. We see in LOU STOKES' career that he has had that ability. People in Cleveland just love him. All across our city people are looking for ways to honor his career, and all across our city, people who are aware of this moment, understand why Members of Congress from East to West, from North to South are standing up to sing LOU STOKES' praises because we know LOU STOKES in Cleveland, and we love LOU STOKES because of what he has done for our city and what he has done for our country.

You know, LOU, there is a test that a lot of us from the inner city make not only of public officials but everybody we meet, and it is a test that is a spiritual test, and we have often heard it. It goes something like this: When I was hungry, did you feed me? LOU STOKES has stood up for hungry people in this country. When I was naked, did you clothe me? LOU STOKES has stood up for the dispossessed in this country. When I was homeless, did you shelter me? LOU STOKES has stood up for people when they needed housing. We love you, LOU STOKES, for the work that you have done for our people.

Somewhere in Cleveland today, you can bet on this, not only in Cleveland but in cities across this country, there will be a child living in adverse circumstance, maybe not even having a home. Maybe they are just sitting on a stoop marking the time, wondering if things are ever going to get better in their life, because things are pretty tough right now. Now, that person in America today could be black, could be brown, could be yellow, could be white. And when he or she is sitting there and feeling low, feeling down, wondering what is going to come and if things could ever get better with their life, they could think about two young African American children who were born in poverty, who lived in public housing, who, through the grace of God and a mother who worked for them, were able to move through the ranks, come to power, reach the pinnacle, make American history, and they always remembered where they came from.

Children of America, look to LOU STOKES. Look to Carl Stokes. Historically, those are two of the greatest people in American history, and they are people who you can be proud to call Americans and we can be proud to call friends.

God bless you, LOU STOKES. I love you and I am glad to be here to say this to the American people.

Ms. CARSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and to my colleagues gathered here together as a part of the 105th Congress, it gives me a great deal of pleasure and pride and admiration to stand here in tribute to the honorable LOUIS STOKES from the State, from the Buckeye State of Ohio. And Congressman STOKES, my predecessor, Congressman Andrew Jacobs, sends his love.

And he told me to remind you of the time you and him both had a date with the Supremes. Something like that. You would remember that. I hope your wives understand that you all were out with the Supremes, or perhaps where you were. But he said that was a night that he would always remember. I think it was because of LOU STOKES and not because of the Supremes, but we will understand.

I knew the honorable LOU STOKES prior to the time that I became a Member of Congress. LOU STOKES' good works has, like it was said, has been able to shine from sea to shining sea. I have been a long admirer of the Stokes family; Mayor Carl Stokes, Congressman LOUIS STOKES, in particular. He reminded me of a poet in his hard work for the people across this Nation and in instilling pride and hope; that for every drop of rain that falls a flower grows and somewhere in the darkest night a candle glows. And LOUIS STOKES was certainly that candle that glowed in the very darkest night for so many people who were reaching out for help across this country.

Throughout his life and career, he has courageously confronted very tough circumstances and assignments. He served in the segregated army during World War II, and earned a law degree when few, if any, law firms would consider hiring a man of LOUIS STOKES' complexion.

He challenged Congressional district minds in Ohio, becoming the first African American Member of Congress elected from his State and the first African American Member to serve on the House Committee on Appropriations. He skillfully served in numerous leadership roles in the House, including chairman of the Select Committee on the Presidential Assassination, the Committee on Standards of Official Conduct, the Permanent Select Committee on Intelligence, the VA-HUD subcommittee, and the Committee on Appropriations.

Mr. Chairman, the honorable LOU STOKES is widely admired throughout our Nation and our world, and certainly after his retirement the work that he has done for this country will endure. I admire, I appreciate, I am a beneficiary of his outstanding public service. And he reminds me of the psalmist that said that he shall be like a tree that is planted by the river's water that brings forth fruit in his season. And even though I know that Mr. STOKES' season has not ended, that all of the beautiful fruit that he has borne throughout his public service will continue to endure for many years to come.

I stand here in a great deal of humility, Congressman STOKES, to say thank you for all that you have done.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the last word.

The first thing I want to do is thank the people of Cleveland for sending LOU STOKES here. I watched LOU STOKES many years before I had the opportunity to come here.

When I came, I left the Texas Senate, where we had battles through debate. But LOU STOKES has taught me that that is not necessarily the way to get things done, and he has taught me that without ever saying a word to me on that issue. I simply had to watch him and that taught me.

When you go before the committee where LOU STOKES is, it is the most wonderful experience because of his partner, Congressman LEWIS, so kind and respectful, that even when you don't get what you go for, you can't even get angry because they have been so nice.

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But LOU STOKES has been steadfast. He has taken care of the very basics for every American. When it comes to housing, when it comes to education, when it comes to health care, there has never been a time when he has not had his finger right on the mark.

Everyone in those areas throughout this country, notwithstanding their heritage or background or race, know LOUIS STOKES for those areas. There are very few Americans that cannot be very grateful for the many things that he has done. The veterans know about LOUIS STOKES and health care. And of course, every poor person and every African-American knows that LOUIS STOKES has spoken up for all of the persons who have not; and LOUIS has done it with class, dignity, integrity.

Within our Congressional Black Caucus, we have a little private joke when we talk about the romance between the gentlewoman from Florida (Mrs. MEEK) and LOUIS STOKES. She got there before I did because she was on the same committee with him. We are going to miss that. We are going to miss you, LOUIS.

There is no replacement for him. There is not a single Member of this body who could tell us about any harsh word that LOUIS STOKES has ever spoken. There is not a Member of this body who could tell us that he ever disrespected them. I do not think there is even a Member of this body, even when he could not deliver on that committee, who would tell us that he has ever hurt their feelings.

It is only once in a lifetime that we have such a giant in a body like this. I am grateful for the opportunity to have served with him after admiring him for so many years. And for a committee that pleases so few people, they have some of the greatest leaders, people that are kind and respectful, smiles on their faces. And I have a feeling that LOUIS STOKES helps to influence all of it.

We are grateful for you, LOUIS. We thank you. We love you.

Mr. DIXON. Mr. Chairman, I move to strike the last word.

LOU, first of all, I would like to thank you for your advice and counsel over the 20 years in which I have served in this House. In listening to the testimony today and the tribute to you, I recognize over those 20 years that you have provided that service and courtesy and friendship to many Members of this House on both sides of the aisle.

I am reminded, LOU, of Lorraine Hansbury's writing when she said that "life has little else to offer except for confrontation with the problem to be resolved." And you and your brother Carl have been confronting and resolving problems for folks of this country for many, many years.

I cannot add much to what all of the Members have said about your fine service to this institution, whether it be on the Intelligence Committee or the House Ethics Committee. But I would like to single out something that I have noticed over the years that other Members have not addressed today, and that is your development of minority staff in this House.

Many Members of this House benefit from fine staff because you first gave them the opportunity, and there are people in government who received their first opportunities, men and women and minorities, because LOU STOKES gave them that first opportunity, and probably that will be one of your largest legacies.

I know that as you move on that you will continue the legacy of confronting and resolving problems because you are a man who lives a full life. And I firmly believe, as I think you do, that that is what life is really about.

You will be missed in this House. I know that we will all continue to have your friendship. This institution is better because you served here, and you can be assured that you will never be forgotten here.

Mrs. CLAYTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, next year the Chicago Bulls may be without their superstar, Michael Jordan. If so, that will be an irreplaceable loss. In the next Congress, we will be without our superstar, my friend, our colleague LOUIS STOKES. That will indeed be an irreplaceable loss.

We know the story of John Henry, the steel-driving man. He built the railroad with his bare hands. When all others and all else failed, John Henry performed. LOUIS STOKES is a modern-day John Henry. He has helped to build this institution, the Congress of the United States, with his bare hands. He has not used fancy gimmicks, high technology, nor futuristic gadgetry. LOUIS STOKES is not that kind of person.

Mr. Chairman, he has helped build this institution with good old-fashioned statesmanship, unblemished

credibility, impeccable integrity, honest dealing, and a deep commitment to public service. While we lament the loss of LOU, we rejoice at the gain for his family, his lovely wife, his wonderful children and grandchildren, all of which grew up within the Congress and who he loves dearly.

This son of Cleveland has always been up to the challenge and prepared for the task. But most importantly, when all else failed, when the machines did not work and the mountain would not move, we could always count on LOU. LOUIS STOKES is a steel-driving man.

Born of humble means, throughout his life, LOU refused to accept mediocrity. He had hopes and dreams. He had goals. He had a vision. He dared to be different and determined to make a difference in this society. These qualities carried him through college, through law school, and these qualities compose him today.

But LOU will quickly tell us that, while motivation may have come from within, inspiration from his mother indeed was his mainstay. I am always moved by the account of how his mother struggled to provide a life for him and his brother, yet through the struggling, she never failed to push him forward, to urge him on, to make him believe in himself and what he could be and become. And he has done his mother proud. He has done us proud.

In more than two decades in Congress, LOUIS STOKES has distinguished himself, making his mark in many places, leaving his permanent imprint in the sands of time.

Tirelessly, he has been a role model for role models and a champion for all. Here he has been more than a Member of Congress. He has been the pulse of what is right, the heartbeat of the downtrodden, the standard bearer of ordinary citizens, the last line of defense for those in need of housing, the first line of defense for the homeless, the lifeblood for seniors and young people and women and the disenfranchised, the conscience of us all.

He has been especially vigilant in the area of health care, particularly in the minority community. When AIDS confounded most of us, there was one of us who confronted it. When disproportionate Federal spending in health care frustrated many of us, there was one among us who stood firm and strong.

When the disparity in mortality rates between majority and minority perplexed all of us, there was one of us who met the matter head on.

History, we are told, is a chronological record of significant events. A significant event is an event that is momentous, profound, pivotal, an event that has made the difference in the course of our lives.

I can tell my colleagues, LOUIS STOKES has been all of that. He has been momentous. He has been profound. And, indeed, he has made a difference in the lives of us who have served with him, a difference in the lives of America. He has made history.

He leaves us now not to quit but to fight another fight, to write another chapter, maybe another book or two, to run another race. We know, as the writer reminds us, the best books have yet been written, the best races have yet been run.

Yes, the Chicago Bulls will never be the same without Michael Jordan. And I can tell my colleagues, this Congress will certainly not be the same without superstar Congressman LOUIS STOKES.

I am proud to serve with you.

Ms. MILLENDER-McDONALD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I stand, too, with my colleagues to say farewell to a giant. I never dreamt that I would be working with such a man, a man whom he has said came from humble beginnings and has stayed humble in spite of becoming a giant.

We recognize that LOU STOKES has soared in terms of an extraordinary attorney, in terms of an extraordinary congressman, in terms of an extraordinary husband and father. LOU STOKES followed in his mother's footsteps. He ensured that his children would be educated. And now he has children who have made marks throughout this country in great ways. But then he did not stop there. LOU STOKES made sure that children of this country got the very best, and he saw to that through legislation.

When I came to this House, I came knowing that I would get the advice and the strength of this great man. He showed me how I could introduce legislation that would help my constituents in terms of AIDS, in terms of bone-marrow transplants, in terms of the myriad of diseases that perplex our communities. LOUIS STOKES helped me to recognize how I could move through committees and still be humble in my presentations and yet reach a level of success.

LOUIS STOKES, the man who has been at the Supreme Court in cases that were landmark cases. This is a giant, Mr. Chairman, one whom not only the Congressional Black Caucus has recognized, but by virtue of those who have been on this floor have recognized.

He has touched many hearts and many souls. He has shown us how to be a statesman, a gentleman's gentleman. I am just all the better because I served with him, and I thank him for all of the advice that he has given me.

I thank you for being part of this great body, being a great man. Thank you so much.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank our friend and colleague, Congressman JERRY LEWIS, for asking for this time so that we may join in a tribute to this very special person who has provided such a high standard of leadership to this House for more than 28 years, a great American, founding member and leader of the Congressional Black Caucus and chair of the Health Braintrust which he established, Congressman LOUIS STOKES.

As a physician, I had the privilege of nominating Congressman STOKES for the Dr. Nathan Davis Award of the American Medical Association. I am pleased to report that the AMA demonstrated its great astuteness and insight in accepting this nomination and naming him as the 1998 recipient of this prestigious and well-deserved award.

Although he has already received our highest honor in 1994, I also look forward to being present on August 1 in New Orleans, when the National Medical Association, of which I am a member, again honors Congressman STOKES for his years of exemplary service and unwavering commitment to this country.

For all his work, his service on the VA-HUD Appropriations Subcommittee, for the Underground Railroad, and especially to me for his service on the Pepper Economics, the Labor-Health-Human Services-Education Subcommittee, and the Health Braintrust of the Congressional Black Caucus, he will leave a significant, far-reaching and enduring legacy when he retires at the end of the 105th Congress, a legacy of legislation and programs which have served to elevate the level and the standard of health and health care not only for people of color but all Americans.

And, so, I am pleased to stand here to thank you, Congressman STOKES, for many reasons. As a newer Member, I want to thank you for your stellar example and unselfish willingness to teach and to guide as I and others assumed our places in this great body. I thank you for your work on VA/HUD and especially for your contribution to our veterans. I thank you for your legacy of decency, compassion, candor, integrity, and fairness.

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I thank you especially on behalf of minority physicians, the poor and people of color everywhere, for you certainly leave us the beneficiaries of all that you have done to further health care in this Nation. And lastly I thank you on behalf of my own constituents, the people of the United States Virgin Islands, for all that you have done for us, for this Congress, and for this country.

We pray that God will continue to richly bless you and your family. Certainly your years of service which I know will not end here will not be in vain.

Ms. KILPATRICK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the gentleman from California (Mr. LEWIS) for allowing us to pay homage to our colleague. It is important that I come on the floor today, Mr. STOKES, to say to you, when I think of LOU STOKES, I think of bravery, of selflessness, of honesty, of character, of fight. A distinguished gentleman, a legislator extraordinaire and a man of principle and strength. It is important, LOU, that as you have heard and sat through this hour and a half that you know as you leave here, though you physically will leave here, what you have taught each of us in your integrity and strength will live.

As someone said before me, this body will be a better body because LOU STOKES put 30 years here. I watched you as I served in the Michigan legislature for 18 years. You certainly for me provided the insight and the intelligence that I needed to be a strong legislator, to speak up and to speak out, and to really represent those who sent us here.

Mr. Chairman, I want you to know as I know your son Chuck and as he serves in our Detroit community, both he and Trudy, that we see LOU STOKES in them, that in them and as we grow our children, all that we would want is that they too represent the intelligent and serve their God. Mr. STOKES, I am here to tell you that your son in Detroit does just that. And that as you leave this body, Mr. STOKES, health care, our veterans, our housing and those things that you fought for for nearly 30 years, we will continue the battle.

So go on, Mr. Chairman. Your wife deserves it, and certainly your grandchildren deserve it. And from the bottom of my heart, just know that as a new legislator to this body, I will carry the Lou Stokes spirit as I serve. God bless you.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is really with a deep sense of honor that I join with my colleagues today to pay tribute to an exceptional man, a leader who has really been more than an example. Congressman STOKES has been a mentor and a guiding force not only to me but also to other congressional Members, to African-Americans and to America at large. A policy reformist, a health and education advocate. But he has really been a teacher. He has set the standard for quality in leadership. Mr. STOKES, as we have heard over the last couple of hours, has made an indelible mark on this institution. Throughout the years he has stood as a superior example for social advocates and activists. In the heat of the civil rights movement, he triumphed as the first African-American from the State of Ohio to be elected to Congress.

When I was here as a staff member for my predecessor, this goes back to 1975, LOU, you were then during those years appointed to the House Select Committee on Assassinations where you served as chair and disclosed valuable information about the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr. LOU STOKES always sought the truth. I marveled at how he handled and chaired that committee. His invaluable influence guided many of us to stand up for underrepresented Americans, young and old, poor, black, white, yellow and red. His work has torn down barriers to health care and has saved lives. Congressman STOKES opened doors that would have been closed and expanded access that otherwise would have been denied. He is really what Dr. Martin Luther King called a drum major for justice. He was a trailblazer of the Congressional Black Caucus's reform efforts to reform health care. His Underground Railroad Network Freedom Act, an act to establish a memorial for African-American slaves, finally bringing them the honor that is long overdue, is historic.

Last weekend I had the privilege to visit Seneca Falls and Rochester, New York with Congresswoman LOUISE SLAUGHTER. This is an area where many stops were on this underground railroad. LOU, I just want to thank you for your vision and your hard work. We all have got to ensure that this important history is preserved. Without your leadership, this institution would not be the same.

Congressman STOKES leaves a rich legacy that will bring lasting change which has made a tremendous difference in the lives of all Americans. Today I just stand here to say thank you, LOU STOKES, thank you on behalf of the 9th Congressional District. I want to thank you for your tireless service, for your mentoring, for your guidance, for your feedback, for all of your assistance that you have provided to me as a new Member of Congress.

Great challenges are ahead for all of us. But the ground that you have laid really provides a firm foundation from which we can meet those challenges. I wish you the best. I am confident that this next chapter of your life is going to be extremely exciting. God bless you.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word. I do want to be here today. I was in my office, Congressman STOKES, and busy with paperwork, but I said, oh, this paperwork can wait. And so I rushed here hopefully to arrive in time to say a few things from the heart about LOU STOKES.

We all know this famous quote. If it has been repeated to this body earlier in the discussion, I apologize; but it bears repeating, because it applies so well to our colleague, LOUIS STOKES, and we have all been expressing these same sentiments. It is the famous quote by one of your Democratic predecessors, Senator Hubert Humphrey of Minnesota: "The moral test of government is how the government treats those who are in the dawn of life, the children; and those who are in the twilight of life, the elderly." That clearly depicts what LOU STOKES' life has been all about. You have contributed to that moral standard of government, Congressman. We are going to miss you terribly.

I must say that I did not have the privilege of working on the committee with LOU STOKES, but when I was ranking member on the Housing subcommittee, I knew that any of the good things we wanted to do in housing, we had to depend upon LOU STOKES' good word and courage and foresight to be able to implement those programs and translate them from legislation into real action in real communities. I am sorry I could not work with you more directly, LOU, but I certainly was one of your admirers and one who appreciated everything you did in the housing area. But I want to repeat to you something that I think is more overshadowing of all that we do on a day-to-day basis, and, that is, how we as a Congress address the real needs of the American people and the manner in which we do it and the moral standards that we adhere to when we do it.

I will repeat to you something that I just heard recently, not from a constituent of mine but someone I know from the Northeast who is a small businessman, has a construction company, and I have known him for many years, and his wife has a realty business. They are good, strong Republicans, LOU. But you would like them. This gentleman said to me recently when I asked him, over the fourth of July recess, "Well, what message should I take back to those inside-the-Beltway types down in Washington?" Without any hesitation, this conservative Republican said to me, "Well, Congresswoman, would you please go back and tell them that we should get rid of the bitter partisanship and return civility to our national government and the way we are conducting the people's business and deal with the issues that count for the American people." But when I saw you here today and these accolades and these testimonials, being given to you, LOU, I thought that is exactly what this man meant. LOU STOKES is the kind of person that this businessman was talking about. LOU always stood on principles—you always have, LOU—and you have exemplefied these qualities of civility and democracy and demonstrating your respect for everyone.

LOU, we need more people like you. We are going to miss you terribly. But I hope that in everyone's mind, the image of LOU STOKES as that kind of moral being who added stature to the business of government will be remembered. We will try to follow in your

footsteps. God bless you and best wishes to you always, and to your family.

Ms. WATERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come to the floor today and take this opportunity to join with my colleagues in paying tribute to an unusual human being. I am delighted to be a part of this tribute, because long before I came to the Congress of the United States of America, I knew who LOU STOKES was. But, of course, most African-Americans in this country not only knew who LOU STOKES was, they knew about LOU STOKES and Carl Stokes. Because LOU STOKES and his brother Carl were pioneers. They were in the forefront of African-Americans getting elected to important and high offices. Most of us who watched them from afar aspired to be like them. They let it be known that they were prepared to work hard, to do what was necessary to provide leadership to this Nation. And so they helped to pave the way for us. We have watched and we have appreciated his work for many years.

He was a friend of my husband's long before I met my husband in Cleveland. My husband played for the Cleveland Browns. My husband as a football player had to have mentors and those that he looked up to. And, of course, it was LOU and Carl. They were the shining examples not only of what those who wanted to be elected officials would like to be but for all of the young men in America who were aspiring to realize their full potential. It was the LOU and the Carl Stokes of the world who helped them to understand what they could be, and what they should be.

And so I want you to know, when I came to the Congress of the United States, I came with full knowledge and appreciation for LOU STOKES. And as chair of the Congressional Black Caucus, I stepped into this role and this position behind many great individuals. LOU STOKES was one of those. He took over the chairmanship of the Caucus in 1972, and he served in 1972, 1973 and 1974 following the resignation of Mr. Diggs. And he set the tone. And he helped to make the rules. This was after he had helped to found the Congressional Black Caucus. They set the tone, they made the rules, and they determined where it was going to go, and what we should do, those of us coming behind them.

And so in my work today, I have to ask myself almost on a daily basis, what would LOU STOKES do in this case, in this situation.

□ 1845

What must I do to follow in that tradition? How must I make decisions that will make him proud of me and my work? So I have to look at what he has done.

Let me just say for the Congressional Black Caucus, we look to him for guidance all the time. When we are going down the wrong path, we will get a visit in the Congressional Black Caucus from LOU STOKES, and he will quietly join in the discussion, and he will tell us what he thinks. No one has anything else to say after LOU has spoken. When LOU speaks, the world listens.

We know that when he takes time to give us his guidance that we should take it, and we do. I have a real appreciation for that, because this is a man who is not only a great family man, who has the kind of marriage and family that is a guide to what we should all try and do, he and his wife are a team.

When you see them together, you know right away that Jay and LOU STOKES have profound respect for each other, and they work together, not only in the guidance of their family, but carrying out much of the work of the Caucus and the spouses and this Congress.

This man, whose wife is his soul mate and his teammate have four wonderful, accomplished children and, I think, about seven grandchildren. They are truly a very strong family. I thank him for providing that picture for America so that they can see that, not all politicians, perhaps, are able to carry out this great family life, but there are some who do it and do it well. Not only is he a family man, but he is a public policy maker extraordinaire.

He really has helped to write the book about what a legislator should do and be. Yes, he has paid attention to African-Americans in this country. Yes, he understood that he was on the cutting edge of work that must be done to help give recognition to and to legislate for people who had not been legislated for in the history of the Nation.

Congressman LOUIS STOKES authored the Disadvantaged and Minority Health Improvement Act that has paved the way for thousands of poor disadvantaged and minority young people to pursue careers in the health professions. He established the Minority Access to Research Careers Program, the Minority Biomedical Research Support Program, the Office of Research on Minority Health and other offices of minority health at various Federal agencies.

He has done all of this while he certainly has been in the mainstream legislating for all of America, working with both sides of the aisle. He is a fine example of oftentimes what people say you cannot do.

He has paid attention to African-Americans in this country. At the same time, he has not been locked into legislating for any one aspect. He works better with JERRY LEWIS than other Republicans do. They work together so well, it is like watching band leaders as they plan and plot and strategize and try to respond to the requests of their Members.

I do not know how well JERRY LEWIS does for Republicans when he is working on their behalf, but I know what LOU STOKES does for us. I cannot go into detail because I do not really want you to know how much we get from that committee, but we do quite well, and that is because of LOU STOKES. He has never turned anybody down. If you go to him with a problem, he is going to work on it, and he is going to help to solve it.

This giant of a man, great family man, this great public policy maker is one of the greatest humanitarians you will ever meet any time, any place, anywhere. He cares about individuals. He cares about human beings. He wants to know what more can be done for the homeless and those who are without.

So I come today to join in the chorus. I am glad the chairman gaveled because I could talk all day about LOU STOKES, and I would do it unless the chairman told me I could not do it any longer because there is a lot to be said about him.

Mr. HEFNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take 5 minutes, but I have long admired LOU STOKES. I remember many, many years ago when I was in grade school and I read about LOU STOKES. And he has been in public life when he had to struggle to get elected. It was a real struggle for LOU to do the things that he wanted to do.

I have got to tell you there is an old saying down home where I come from, when we lived out in the country, and if you had a chance to get away for a weekend or go somewhere, there was always a neighbor around that you would look to and you would say I want to get them and come in and look after my things. And LOU STOKES is the kind of a guy that I would trust to come in and keep my house key and do up and look after my things. He is that kind of a man.

I cannot say enough good things about LOU STOKES. His legacy will live long after he has gone to retirement. A very dear friend of mine in North Carolina, he has passed on now, and he always said in closing his statements, and I will say this to LOU, LOU, I hope you live as long as you want and never want as long as you live. Thank you so much.

Mr. MEEKS of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to say thank you to a man who is a living legend, a man who is a gentleman, a man who is a hero, not only an African-American hero, but a true American hero. For surely I do not believe that I would be standing here today in this august body as a Member of the United States House of Representatives if it was not for the trailblazing work of Carl and LOUIS STOKES.

I remember, while in high school, maybe it was junior high school, when

Carl and LOUIS STOKES began to run for office in the City of Cleveland. As a young boy, I would scratch my head and say, why can we not do that in New York? That was the beginning of me having an opportunity to admire, look up to, having an idol, and having a hero and a role model in LOUIS STOKES.

I can recall attending the great Howard University School of Law; and while in evidence class, my professor was talking about the landmark case of Terry versus Ohio, and said, did you know that there is a man that works over in the Capitol that was one of the attorneys on this landmark case? That was LOUIS STOKES.

I can recall attending my first Congressional Black Caucus weekend and sitting in the seat and watching Mr. STOKES move about and being in awe. Little did I know that, at that time, that I would be having the pleasure and the opportunity of saying that I served, though ever so briefly, with LOUIS STOKES.

I recall when Willie Mays was traded to the New York Mets, there was a rookie on the team at that time. In the newspapers, they were asking the rookie, when he took his first step at the plate, was he nervous? How did he feel? All he said was, I did not even think about stepping up to the plate. I just remember sitting next to Willie Mays.

Well, I can say that my first experience here, and being next to this giant of a man in LOUIS STOKES, I shall always remember for the rest of my life. But to have that privilege to be able to tell my children and my grandchildren, and, hopefully, they can tell their children, that their great grandfather had the opportunity to serve with an individual who changed the course of history in America is an opportunity that I could not pass.

I thank God for that opportunity. I thank God for the legend, for the man who epitomizes what a legislator should be, who talks the talk, walks the walk, and the main thing is gets results.

My predecessor, I asked him before I came, I said, you have been successful, and many people have said that I have big shoes to fill. How were you able to accomplish such things? He said, "Well, LOUIS STOKES." He said, "Take advantage of all that you can while he is there."

The biggest loss to the House of Representatives that we will have is losing LOUIS STOKES. I say to my hero, may God continue to bless you. Keep walking on. I am so thankful I have had the opportunity to serve with you.

Mr. SAWYER. Mr. Chairman I move to strike the last word.

Mr. Chairman, it is easy to forget in the span of 30 years what 1968 was like. It was an extraordinary time in America. It was a time of great difficulty and great promise.

In Cleveland, Ohio, the great promise was the light that was lighted by the Stokes brothers. We have heard much said about that. It is a light that has been a beacon that has stretched across this great Nation.

But I would like to illuminate 1968 from a different point of view. 1968, the year that LOU STOKES was elected to Congress, the year that his brother served in his first year as mayor of Cleveland was, indeed, a troubled time.

In some ways, it was more difficult than even some of the problems that we face today. That is not to minimize the problems that we face, but that was the year that I began to teach at Cleveland Central Junior High School across the street from the oldest public housing project in the United States, not far from where Louis and Carl Stokes grew up and established their roots and blossomed into the kind of leaders that they became.

But on that November morning in 1968, following the election of LOUIS STOKES to the United States Congress, in the first classes that I taught at Cleveland Central, the kids came into that class filled with conversation about what this meant in their lives. It was a vague sense, it was an unformed sense, but it was brightened by the hope and aspirations that were giving new meaning and new life in even perhaps the most troubled year that this Nation had endured since the Second World War. It was a vision of hope.

We have heard a great deal said today about the enormity of the model that LOUIS STOKES established for children, adults, people all across this Nation in very large ways. But just let me say to my colleagues that those 600 kids that I had the privilege of teaching across the street from that housing project and who came in that classroom that next morning and said, you know, he is from our neighborhood, the opportunities that have been given to them as a product of the model that LOUIS STOKES has represented is more than that.

It is not only the model and the example, it is the real world opportunity, not only to run for office but, as we have heard, to undertake careers unthought of before, careers in law, in medicine, in research, in science, and industry. But just as important, careers as policemen and as firemen and working in places that they might a generation before never have had the opportunity to work.

That is not just a model. That is day-in and day-out effort to live in places of decency and cleanliness, to grow up in cities that are safe, to have access to what we speak frequently of as the finest health care delivery system in the world, it means little if you do not have access to it.

It has meant a time in which we have seen the life-span of Americans increase 10 years in the last 30 and even more than that for African-Americans. That is a contribution of enormous effort that saw its light bloom in the eyes of hundreds of kids across the City of Cleveland as they came back to school that morning the first Wednesday after the first Tuesday after the first Monday in November of 1968.

Their lives have been changed in ways large and small, and they will change the lives of others in ways that will spread throughout a Nation. It has been because of the work of LOU STOKES and the example that he has set for so many others. It has been a privilege to serve with him, and we look forward to his guidance for years to come.

□ 1900

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know LOU STOKES well enough to know that by now he is very uncomfortable, and I am not going to take five minutes making him more uncomfortable, because the more amazing things we say about him, the more uncomfortable Lou will become, and I can see him squirming in his seat now with discomfort.

I met this man, and I am sure LOU does not remember this, before I came to Congress, in Charlotte, North Carolina, when he was visiting with friends there and visiting his daughter, who was an anchor person in Charlotte. Neither LOU nor I had any expectation that I would ever be a member of Congress. I remember going away that evening after having met him saying, "That is a really nice guy." I was not a colleague then. He did not even know me. And I think it is that quality that people pick up on that says something about LOU STOKES.

It is easy to be nice to people that you know and respect as your equal, that you are colleagues with, but it takes a special person, a humble person, to respect and be nice to everybody, and I have yet to ever see LOU STOKES not be nice to anybody.

It is that quality that I think I respect and love about LOU STOKES and that I will always remember, and that is a personal feeling that I have about it. That aspect of it I cannot ever get away from. Aside from all of the wonderful things he has accomplished, I just know that this man is humble enough and respects the views and respects other people enough to always be nice to them. I just want to tell him how much I have enjoyed his friendship and being in the same body with him.

I will yield back, so as not to continue to make him more uncomfortable.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to join the chorus of statements about our colleague and friend, LOU STOKES. It is clear that this is not an ordinary member of Congress, when you see the number of people coming in to speak today.

I just want to say from my own memories, for people who are interested in the struggle for justice in America, in the second year of high school we learned who LOU STOKES was. Again, with great names like Mo Udall and others, he served in Congress. Like many of the people here, I never expected to have the privilege of serving with him.

I think my friend is correct, he is a little uncomfortable in this position and the time we are taking, but I would think that everyone recognizes the 30 year contribution, not just being here, but the contribution you have made to this government, to this country and its people, is well deserving of the praise. I am just privileged to have spent the last 18 years here serving with you. Like many others, I have admired your ability to fight hard, stay civil and stay committed to the things you believe in.

Thank you very much.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am also very pleased to rise in this tribute to my good and long time friend and colleague, Congressman LOU STOKES, who has really been an inspiration to me personally and such a hero to many people throughout this country, including myself.

At a time when public cynicism about elected officials runs rampant, Congressman STOKES has been the embodiment of all that is good and positive about public service. During a political year marked by bitterness and animosity, LOU STOKES has remained a model of decorum, diligence, dignity and passionate commitment to the task of improving the quality of life for millions of Americans.

He has been there to fight the good fight on behalf of better housing, access to quality health care, a cleaner environment, the protection of benefits for veterans and for senior citizens, those who are the most vulnerable among us.

Even before my election to Congress, I had the pleasure of getting to know Congressman STOKES and his late brother, Carl, who served as Mayor of Cleveland and later Ambassador to the Seychelles.

As you know, it was Congressman STOKES who managed that election in the late sixties, and it was his skill and Carl's ability that made that election successful, the first major city in the eastern part of the United States to elect an African American mayor, at a time when there was a tremendous amount of civil unrest. In my City of Newark, in 1967, there was a rebellion and 28 people were killed. So it was a time of great tenseness. But it took a combination of a LOU STOKES managing and a Carl Stokes, descendants of slaves, out opposing a descendant of a former president, if my facts are correct.

So Mr. STOKES has done so much. My brother Bill, who is now a New Jersey assemblyman, and I were fortunate to form a friendship and working relationship with LOU and Carl, and we certainly were deeply saddened by Carl's passing in 1996.

Congressman STOKES has been a true friend, going the extra mile, and never asking for anything in return. When I decided to run for the prestigious and awesome position of Chair of the Congressional Black Caucus in 1993 to serve in the 104th Congress, I went to Congressman STOKES and said I was interested and sought his approval. He simply gave me advice and encouraged me to move forward. He said, "It is going to be a tough election, but, more importantly, if you are successful, it is going to be a tough position, and if you are not ready for it, don't seek it." I assured him I was ready, and, once I was elected, I always looked to Mr. STOKES for guidance.

Recently on an occasion I had the privilege just several months ago for Mr. STOKES to visit my district. He was kind enough to accept an invitation to be a guest speaker at an event in my honor. Mr. STOKES is very punctual, and he got to my city about an hour early. I had to rush and speed up to meet him at the airport. We decided, since we were early, we had a few moments, and stopped by a local eatery in my district called Mrs. Dee's.

Well, I go there often, but I never get the excitement that I got when Congressman STOKES came in. Even people in my district who did not know who I was ran up, and I said gee, I guess I am moving up in my recognition factor. And they all rushed right by me to grab Congressman STOKES and said, "We are so happy to see you." I looked around, and the place went by me to just shake the hand of Congressman STOKES. That is the type of person he is. We were so honored, because he is a man of humble beginnings.

Recently many of you may know he received an award for being one of the most prestigious "graduates," I guess we could say, from public housing, and that was a great honor, to be recognized in this country as a person who really looked out for the little guy, for those struggling on a daily basis to hold their lives together, to provide for their children.

When I walk through my district, I see visible reminders of what LOU STOKES has produced during his years in Congress. As a senior member of the House Committee on Appropriations, Congressman STOKES' door was always open. When I sought his assistance for initiatives of importance to my constituents, because of his efforts, we have been able to make improvements in housing, to restore a public park known as Weequahic Park, to help abandoned infants and children stricken with HIV, to train students for health and science-related work at a site called Science Park, to take a rundown and economically distressed area and turn it into a revitalized waterfront, and now we have a world class performing arts center.

Congressman STOKES has been a tireless crusader for what is right and just. He has made an enormous contribution to the field of health care, notably minority health issues, which have been shortchanged for so many years.

Mr. Speaker, we will surely miss our friend LOU STOKES and Jay, his wonderful wife, but we know that he will continue to use his talents and to voice his concerns long after he leaves this institution. We wish him well as he enters the next phase of his life, and we thank him for all he has done for this institution and for his country.

When this CONGRESSIONAL RECORD is printed tonight, when I receive my copy tomorrow, I am going to have copies sent to my local libraries, and we are going to have copies made to distribute to students in my district who feel shut out, who feel that they cannot make it. I am going to ask teachers to use this CONGRESSIONAL RECORD as a teaching tool, so that they can understand how many great African American persons are still amongst us.

Mr. RUSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise this evening because I have LOU STOKES on my mind and LOU STOKES in my heart. I never met a man who exudes the kind of quiet leadership, the kind of quiet power, who has ever exuded the kind of excellence that LOU STOKES exudes on a day-to-day basis.

LOU STOKES' quiet leadership has endured throughout his tenure in this body. We have heard other Members talk about his soft-spokeness, but even with that soft-spoken voice, his message has resounded beyond the halls of this Congress.

When he speaks, his views contain a depth of knowledge and understanding and compassion that is unsurpassed. LOU STOKES has been an unwavering knight fighting on behalf of the underserved, those who have no voice, those who are outcast in this society. He has used a sword of public consciousness to slay the dragon of indifference. No matter what the issue is, whether it is housing, health care, civil rights, he has always remained at the roundtable of courage.

LOU STOKES, Mr. Chairman, is an individual that you cannot help but love and respect.

Mr. Chairman, I believe that God almighty ordains us, calls us to different types of ministries, and I believe that God has called LOU STOKES to the ministry of public service. I know that LOU STOKES has answered that call, because

I know that people who right now feel as though they have no friend at all in government, who feel as the government does not represent them, does not care about them, I know that they all feel a certain affinity and love and respect for LOU STOKES, because LOU STOKES goes against the grain.

□ 1915

He stands up and represents those who are disheartened, those who are dispossessed, those who are outcasts. I have such a profound respect for LOU STOKES, Mr. Chairman, that I cannot even express it in words. I have such a love for this man, for his quiet strength, for his example.

Mr. Chairman, he is like still water that runs deep. He is a man who has compassion and understanding. He serves as an example for us all, Mr. Chairman, and for all of those young men, poor young men who feel a certain hostility toward the world because the world has not shown any love and compassion to them. LOU STOKES serves as an example for those who are suffering in public housing projects throughout this Nation today; for those individuals who are hungry as we speak; for those individuals who find themselves in the most humble of existences. He serves as a solid example for us all.

Mr. Chairman, I just want to take a moment to inform Members about a young man, 22-years-old, who decided at an early age that he was going to fight for change in America, a man who decided that after serving in the army for 4 years, that indeed, he was going to put on a new uniform, a uniform fighting for those who were being discriminated against and fighting for those who were victims of prejudice and biases. This young man joined an organization, Mr. Chairman, and it was a very controversial organization, and indeed, this organization stood for defending itself against one of the many issues that confronted people, police brutality, in the City of Chicago. This was in late 1969.

There was an altercation with members of the Chicago police department. Two members of this organization were killed and 7 members were wounded. Young people 17, 18, 19, 20, 21, 22, 23 years old who found themselves in this organization felt as though the world had turned upside down, the world had turned on them. The law enforcement agencies of this country had aimed their mass weaponry at these individuals. They did not know which way to turn, looking at the military might of the law enforcement agencies of this Nation. After Fred Hampton and Mark Clark were killed, chaos reigned, fear reigned.

Mr. Chairman, at a certain moment in time in Chicago, Illinois on the West Side, LOU STOKES led a contingency of black Congressmen into Chicago to find out what was going on, to expose the injustices that existed at that time, and, Mr. Chairman, I say to my colleagues today that his courage in leading that group of Congressmen into Chicago deflected the bullets that were aimed at those members of that organization. I say to my colleagues, Mr. Chairman, that right now there are only 2 members of that delegation that serve in the Congress today: The gentleman from Missouri (Mr. CLAY) and the gentleman from Cleveland (Mr. STOKES).

This 22-year-old young man who found himself as a member of that organization at that time, the Black Panther Party, now finds himself as a colleague of LOU STOKES in the United States Congress. And I know, Mr. Chairman, that my road would not have led here if LOU STOKES had not taken a moment out of his busy life to visit the West Side of Chicago to find out for himself what was going on. That if, indeed, he had not armed himself with the shield of public consciousness and with a shield of public opinion to deflect those bullets, then I would not be here today.

Mr. Chairman, since I have become a member of this Congress, and in my life I have led a pretty full life, I have seen all types of individuals who call themselves leaders, who want people to follow them wherever they may lead. But Mr. Chairman, I say to my colleagues, there is only one endearing kind of leadership, there is only one quality that means so much that people will follow, and that is the quality that LOU STOKES has.

Indeed, Mr. Chairman, he is a quiet warrior, but a very, very effective warrior. He is not a flash in the pan, he is a person who endures. His example will be a beacon light for all of those who follow; his example will be a beacon light for all young men in America who want to rise above their conditions and become and assume the mantle of greatness.

Mr. JACKSON of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just about a week or so ago I told Congressman STOKES that I had been preparing remarks for this occasion. The truth of the matter is, Mr. STOKES, I really do not want to say goodbye, and that is the honest to God truth.

On the day that Congressman STOKES was born, February 23, 1925, there was no African-American representation in the United States Congress. In fact, there had not been for a quarter of a century since January 1 of 1901, when George White of South Carolina said that, "One day, Phoenix-like, we will be back." There had been 22 African-Americans that had served in Congress between 1870 and 1901, the first Congressional Black Caucus, but we did not return until Oscar DePriest, a Republican from Illinois, won the election in November of 1928. LOUIS STOKES at that time was 4 years old.

Forty years later, LOUIS STOKES was elected to the United States Congress on his first bid for public office, the first and only African-American ever elected to Congress from the Buckeye, or as the politics were known 130 years ago, the butternut State of Ohio. I am the 91st African-American ever elected to Congress. Congressman STOKES was elected to the 91st Congress and has served 15 consecutive terms 30 years since then. I was 3 years old when he came to this institution.

For perspective, there are been 11,544 Americans to serve in Congress, and only 103 African-Americans have ever had the privilege of serving in the Congress and in the Senate. Of the 103 African-Americans who have served in Congress, LOU STOKES, Mr. STOKES, is a world historical figure.

As a founding member of the second and current Congressional Black Caucus and as the Chairman of the CBC's Brain Trust on Health, he is the leading African for addressing health care needs in African-American communities. To his leadership on the special Committee on Intelligence, investigating the possible conspiratorial deaths of Martin Luther King, Jr. and President John F. Kennedy, to his current role as the third ranking minority member on the Committee on Appropriations, to the ranking minority members of the Subcommittee on Veterans Affairs, Housing and Urban Development and Independent Agencies, to his 11th ranking seniority among all Members of Congress, to his ninth ranking membership amongst all Democrats, to the recent passage on June 9, 1998 of H.R. 1635, the National Underground Railroad Network to Freedom Act, he has been a good man and an effective legislator.

With elections every 2 years for 435 Members of this body, some Members come and go having never left their mark or impacting the lives of their constituents. But as a result of his 10 tours in this body, our young people can grow up with greater expectations and brighter futures, with more health care options, with better affordable housing options and more equal educational opportunities.

I am here today to say thank you to LOU STOKES, thank you because there have been in his 30 years no letdowns, no scandals, no public embarrassment, no funny money, nothing that has shamed us. Nothing that is associated with the name "Mr. LOU STOKES" that brings a lack of dignity to those of us who long so hard for the opportunity to serve. So, I cannot honor Mr. STOKES enough.

When I first came to Congress all of my colleagues said, please call me by my first name because we are colleagues now. Chairman LEWIS says, call me JERRY and RAY LAHOOD says, call

me RAY, and ROEMER says, call me TIM, and others want to be called by their first name. But I always called Chairman STOKES Mr. STOKES. Why? Because I cannot thank him enough for all of the health care that he has fought for, for all of the options that he has fought to open up America for more people; I cannot thank him for every affordable housing fight that he participated in. I cannot thank him for every dollar that he appropriated for historically black colleges. I cannot thank him enough for all that he has done for so many families, for people that do not even know his name, I cannot say thank you enough. So the only way that I have honored Mr. STOKES is by calling him Mr. STOKES.

Mr. OBEY. Mr. Chairman, I think everyone here has enjoyed the comments that we have heard about our colleague, LOU. As my colleagues know, we have a lot of business yet tonight. There is no desire on the part of anyone to prevent anyone from speaking, but in order to avoid some time problems, I think it would be useful if we could get an agreement.

I asked LOU if he thought it would be appropriate so that we do not unfairly shut this off, and yet can move on with our business, to ask unanimous consent that this continue for another 10 minutes with the time being divided equally among those who still would like to make comments, and then we can move on to a call of the House so that LOU can respond to all of these comments when we have a full House, and then we could move on with the rest of the evening.

Mr. Chairman, I asked the gentleman from California (Mr. LEWIS) if this meets with his approval, and it does.

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

There was no objection.

Mr. OBEY. Mr. Chairman, could I ask the Chair to ascertain how many speakers remain so that we can divide the time?

The CHAIRMAN. The Chair would request that all individuals wishing to speak so notify. Apparently 5, the Chair would state to the gentleman from Wisconsin.

Mr. OBEY. Five people, all right.

Mr. Chairman, let me explain to my colleagues. All we need is to know how many people want to speak and then we will divide the time equally so that everyone gets a fair shot at it.

The CHAIRMAN. The responsibility of counting has been left to the gentleman from Wisconsin.

Mr. OBEY. Well, I see 140.

The CHAIRMAN. The gentleman from Wisconsin is recognized for 10 minutes.

Mr. OBEY. Mr. Chairman, I will get a list and I will yield to everyone 1 minute.

Could I start by yielding 1 minute to the gentleman from Louisiana (Mr. JEFFERSON).

□ 1930

Mr. JEFFERSON. Mr. Chairman, I wanted to say something to the gentleman from Ohio (Mr. STOKES) tonight. I will not have time enough to say all that I want to say, but it is time enough to bring an end, someone had to, a merciful end, to this line of tributes to the gentleman.

LOU, I want to say what has struck me most about you is your capability for love for all of your colleagues, for the institutions that has served us all so well, the Congressional Black Caucus and the many other institutions here, and for the institution of Congress itself. That you have a great and enduring sense of humor. You and I find time to laugh on this floor all the time, and you have proven you can have fun and get something done and that while we have serious business to conduct, we do not have to take ourselves too seriously.

You have been deeply concerned about affecting the lives of other people. Your work has actually done that. The children who have lived in public housing over the years, and who live there now, people who are aspiring to get a house for the first time with the help of your committee, and the veterans who have given so much to their country are benefiting from what you have done. Long after you are gone, not generally from this place but from this Earth, there will be folks whose lives have grown out of your life. You have made a difference from that respect.

LOU, you are the best example of a Congressman that I have encountered in this body and I hope that in some small way I could be an example for others as you have been to all of us.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, as Mr. STOKES well knows, there is not one of us that did not want to come to the floor and share with him his life, his life history and his eloquence.

Mr. STOKES, you were elected to this Congress in 1968, the year of the assassination of Dr. Martin Luther King and Bobby Kennedy. You also rose to the highest heights of arguing in the United States Supreme Court; you eloquently made the argument that just because of the color of your skin, you should not be stopped along the streets and highways and byways of this Nation without any rhyme or reason. The Supreme Court agreed with you.

I thank you for who you are. You know, I claimed you long ago as a mentor. When I came to the Select Committee on Assassinations, it was your kindly demeanor that encouraged me as a young committee staff attorney to become involved in public service. You have no shame of being an African-American. I think the fact that we come here and say you are the first of this and the first of that, there is no shame because you have led the way.

On behalf of black institutions like Texas Southern University and other such colleges around the Nation, we thank you for being the father of traditionally black colleges. And all of America thanks you for helping the least of our brothers and sisters, whether they are in Appalachia or Cleveland or Houston or Los Angeles or New York. You made sure they were housed, you made sure they were fed, and you made sure they had good medical care.

To your wife, Jay, and the family, I say we love you and we believe that this Nation's fabric will be woven with your legacy.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I simply want to echo the sentiments that have already been expressed by all of my colleagues, that LOU STOKES has no peer when it comes to service, dedication, and generosity.

We have already heard of all of his accolades. I guess Kipling must have been thinking about him when he penned those words that said, "If you can walk with kings and not lose the common touch, if all men matters with you, but none too much." And finally LOU, "If you can feel the unforgiven moment with 60 seconds worth of distance run, yours will be the world and all that is in it. And what is more, you are a man, my son."

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. OBEY) for yielding me this time.

Mr. Chairman, although I have only had the privilege of serving with Mr. STOKES for the past 11 years, our families go way back. And so it is a personal as well as congressional privilege to rise and pay homage to him.

Since the time has been shortened, I will have to associate myself with the remarks of our colleagues who have gone before and just to say that the STOKES name is legendary in my family. My brother, Thomas D'Alesandro, III, served with Carl Stokes as mayors in the late 1960s and 1970s, those difficult urban years. Carl Stokes was one of the first black mayors of a big American city, mayor of Cleveland.

And LOU STOKES, there are some people who are just born with a special grace and those of us who are fortunate to work with them know who they are. Every day that we come to work we learn from you. Every day that we come to work we are inspired by your fight for people with AIDS in the minority community, your fight for economic and social justice, the lessons you teach us on how to resolve conflict in a gracious manner.

I always say that the greatest tribute to Mrs. Stokes, your mother, is the wonderful public life and private lives of Carl and LOU STOKES. Carl went on to be ambassador to the Seychelles. And now my daughter is a friend of young Carl Stokes in California, so the tradition goes on.

Mr. STOKES, you will be sorely missed. It was a privilege to call you colleague.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. STOKES, I think you know a lot about somebody by the company they keep and by the family and the service that they have provided to this country. You come from such a distinguished family of service. Your brother Carl Stokes and you have been the epitome of a public servant.

I remember going before the Committee on Appropriations not too long ago as a freshman and testifying on Closeup and TRIO. It was a long day. You had heard probably 10 or 11 hours of testimony, but when somebody testified about helping kids and the underprivileged, you perked up. You asked all kinds of questions and you said, "We have to support those programs." That was the example that LOU STOKES showed to me.

You have also always stood up for the economically disenfranchised, for the emotionally discouraged, and you have lived Bobby Kennedy's slogan: When one of us prospers, we all prosper. When one of us fail so do we all.

You have ensured so much prospering on the part of the underprivileged and tried to ensure so little failure. We all thank you and salute you.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Mr. Chairman, I am happy to join my colleagues in expressing my views and my feelings about LOU STOKES.

LOU STOKES is a very interesting person. He has the ability to persuade. I remember some years ago when I was chair of the Congressional Black Caucus that a group in Cleveland had invited me to speak. I indicated to them on the phone that I could not do it. I sent them a later indicating that I could not do it, and then I had my staff to tell them that I could not do it. And all the sudden I am walking and LOU stopped me and put a hand on my shoulder and said I would like very much for you to go and address the group in Cleveland. And I said, "LOU, I would be delighted to go and address the group in Cleveland. But I have a problem. I have already sent them a letter." And he said, "I am sure you could straighten that out."

Mr. Chairman, I must admit I sent them a letter saying it was a mistake, I would be coming. I want people to know that LOU STOKES is very interesting in a lot of ways.

Also, another thing I would like to comment about the gentleman, being around this body here now for 16 years and watching Members, LOU is special in another way. When you ask Lou for help, he does not do like a lot of Members in this body, call a press conference on you. LOU is not the kind of person that when you ask for help he calls a press conference, and then when he indicates he is going to help you he calls a big process conference. And then if he does it, he calls a real big one.

He is not like that. LOU STOKES is the kind of guy that very quietly will do whatever he can do to make life better for you as a Member and your constituents.

Lou, we will miss you in this body. In all the years that I have been here I cannot think of a finer Member than LOU STOKES. What a man. What a man. We will miss you.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I have been in and out of the Chambers for the last several hours waiting for an opportunity to come in and say a few words. This has really been unprecedented to see so many Members want to come forward to pay tribute to our colleague. One minute is inadequate but so would 5 minutes be inadequate to say the kinds of things that LOU STOKES deserves to hear.

Different Members leave different imprints for their service. Few Members can match the difference that LOU STOKES has made in this country and in this institution.

First of all, as a colleague, he has always been helpful to people. His integrity, his intelligence, his dedication to public service stand out and he will always be an inspiration to all of us. He has made a great difference to people not just in his district but all around the country when it comes to questions like housing and education and health care and environmental questions. I think that it is important for us to pay tribute to him.

I want to take this moment to thank him for his friendship. He will always serve to me as a model for what a legislator ought to be.

Mr. OBEY. Mr. Chairman, I yield one minute to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, I would like to briefly pay tribute to one of my heroes, too. Mr. STOKES is just a tremendous, tremendous person. Earlier this year I spoke, following MAXINE WATERS and Congressman STOKES, to a group here in the Capitol, and as I explained to the people, following MAXINE WATERS and LOU STOKES, you are the two people in this Capitol that are unique. One could heat this place up faster than anybody and the other could cool this place down faster than anybody. Those are both valuable tools and they are wonderful tools to have.

He is a man I have tremendous respect for, just tremendous respect, because he is a kind person and he treats people with respect. He treats issues with integrity and that to me is the most important thing a person can bring to this Chamber.

So when you go home tonight, LOU, I want you to think about Sally Fields when she accepted that Oscar and you can say, you do not have to say it here but you can say it there, you can say they really liked me because, LOU, we really like you.

Mr. OBEY. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I would simply say I know that this has taken a long time tonight and I know that it has made some people nervous who want to get on with the business of the House. All I would say is with all of the matters that come before this House that divide us, I think it is good and crucial that from time to time we have moments of grace like this which make this place in the end a much better place for all of us to work in.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to pay tribute to a great friend and a valued colleague. LOUIS STOKES has been a trailblazer and, indeed, he blazed the trail for me and many others who have struggled against racism, prejudice and economic injustice. Since 1968, Congressman STOKES has dedicated himself to fighting for economic and social justice for all Americans, regardless of race, creed, color or gender. While he has been a steadfast champion for the rights and welfare of his constituents in Cleveland, he has been no less dedicated in his pursuit of equality and fairness for all of America's—and the world's—disenfranchised, downtrodden and persecuted people. I looked to the example of Congressman STOKES' service in Congress as a guide during my service in the Texas House and Senate before I came to Congress. I took heart from his determination and perseverance in the face of long odds during my struggles to advocate for the poor and dispossessed. As an African-American, I owe Congressman STOKES a particular debt of gratitude.

LOUIS STOKES exemplifies the finest qualities of leadership, dedication to public service and compassion for his fellow men and women. He has served with distinction in the House, including his chairmanship of the VA–HUD Subcommittee on the Appropriations Committee for 2 years beginning with the 103rd Congress and two stints as Chairman of the Ethics Committee during his 30 years in the House. Congressman STOKES stands as a living symbol of the American dream, rising from humble beginnings to the halls of Congress, the legislative body for the most powerful country in the world. It is noteworthy, that Congressman STOKES has never forgotten where he began, that he has remained committed and loyal to the community that nurtured him in his youth.

Since my election to Congress in 1992, I have turned to LOUIS STOKES for advice and

counsel, for guidance on how to increase my effectiveness as a representative of my constituents. Congressman STOKES has always been unfailingly helpful and generous with his time and support. Congressman STOKES possess an amazing ability to bring clarity to debates, to cut to the heart of the issue that is being debated. He possesses an equally special talent for offering fair and equitable solutions to problems that seemingly are intractable. His knowledge, wisdom and leadership will be sorely missed in Congress by Democrats and Republicans.

In considering the sadness of Congressman LOUIS STOKES' retirement from Congress, there is only one bright spot. The Stokes family, who unselfishly surrendered husband, father and grandfather because of the demands of public service, will now have the opportunity to reclaim his time. It is my hope that, while he will be no stranger to Washington, that he will take a well-deserved rest and enjoy the luxury of having quality time to spend with his family. In closing Mr. Chairman, I thank Congressman STOKES for his leadership and friendship over the years, and I wish him all the best for the future.

Mr. PORTMAN. Mr. Chairman, today I rise to pay tribute to my friend and colleague from Ohio, the Honorable LOUIS STOKES, and to honor him for the many accomplishments of his distinguished career. It has been an honor to serve with him in the United States Congress.

I had the pleasure of working closely with LOU STOKES and his dedicated staff on the Underground Railroad legislation. This legislation will create the first link of sites connected to the Underground Railroad, many of which are in danger of being lost. During our three years of hard work on this bill, I had the benefit of his guidance and counsel. LOU was willing to make this effort a completely bipartisan one. His commitment to the passage of the legislation never wavered, and President Clinton signed the bill this week.

LOU's accomplishments are numerous. He successfully argued a landmark case before the U.S. Supreme Court. He served as Chairman of the House Committee on Standards of Official Conduct, Chairman of the House Permanent Select Committee on Intelligence, and Chairman of the House Select Committee on Assassinations. Most importantly, he met the needs of his constituents as only a true public servant could do. I have seen firsthand the enormous respect LOU has both at home and nationwide. All of us in Congress will greatly miss him.

Mr. THOMPSON. Mr. Chairman, as we debate the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999, I rise to pay tribute to Representative LOUIS STOKES for his twenty years of dedicated work on the subcommittee responsible for much of the work on this bill each year. Representative STOKES has always been a stout defender of the progressive and innovative efforts included in this legislation which seek to provide more Americans with the opportunity to fulfill their dreams.

Representative STOKES' career on the Appropriations Committee and the Subcommittee on the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations has left a mark forever on this House, and most importantly, on the lives of countless American families. I wish him luck and Godspeed in his well-earned retirement.

Mr. GILMAN. Mr. Chairman, I rise to join my colleagues to pay tribute to a Member of this body who will soon be leaving us but who will long be remembered.

LOU STOKES first came to Congress in 1969. In many ways, America was a different nation and this chamber was a different body back then. The concept that all Americans, regardless of race, creed, color or background had an equal place at the national banquet table was still new to many in our society. While our nation had theoretically believed that "all men are created equal", in reality it was only eight years since we elected our first non-Protestant President, and the number of Afro-American Members of Congress, or for that matter, women, could be counted on one hand. LOU STOKES' first election to Congress came only two years after the election of the first Black to the Senate since reconstruction.

LOU STOKES was in so many ways a pioneer and a trail blazer who by word and example inspired a generation of leaders who have come after him.

While I have admired LOU in many ways, I most value his active, enthusiastic participation in our U.S. Congress-Korean National Assembly Student Intern Exchange Program. He is the only one of my colleagues to have participated in this program since I initiated it in 1984. He encouraged young people from his own district to apply, and also welcomed Korean students to his own offices with open arms. LOU did this because he always believed in universal brotherhood. He contended that prejudice and bigotry are eradicated by knowledge and understanding, and he was a true champion of standing up for these beliefs.

Although LOU has compiled an enviable record in this chamber, many of us believe he takes the greatest pride in the success of his daughter, Lori, who used to be a news reporter on ABC and is now one of the most respected of all commentators on CNN. The fair, balanced, and intelligent presentation of the news which has become the hallmark which has made her the talk of the nation reflects the values her father placed upon her.

To LOU, to his wife Jeanette Francis, and to all four of their children, we extend our best wishes for many happy, healthy, and productive years ahead and we assure you all that this great Member of Congress will long be missed.

Mr. LEWIS of California. Mr. Chairman, as I remind myself of that wonderful sign on a great building in Sacramento, California, "bringing us men to match our mountains," I ask unanimous consent for a call of the Committee.

The CHAIRMAN. Without objection, a call of the Committee is ordered.

There was no objection.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 333]

Abercrombie
Aderholt
Andrews
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Borski
Boswell
Boyd
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Ewing
Farr
Fazio
Filner
Foley
Forbes
Fossella
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Oberstar
Obey
Olver
Oxley
Packard
Pallone
Pappas
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Rush
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer

Saxton	Souder	Torres
Scarborough	Spence	Towns
Schaefer, Dan	Spratt	Traficant
Schaffer, Bob	Stabenow	Turner
Schumer	Stearns	Upton
Sensenbrenner	Stenholm	Velazquez
Sessions	Stokes	Vento
Shadegg	Strickland	Visclosky
Shaw	Stump	Walsh
Shays	Stupak	Wamp
Sherman	Sununu	Waters
Shimkus	Talent	Watkins
Sisisky	Tanner	Waxman
Skaggs	Tauscher	Weldon (FL)
Skeen	Tauzin	Weldon (PA)
Skelton	Taylor (MS)	Weller
Slaughter	Taylor (NC)	Wexler
Smith (MI)	Thomas	Weygand
Smith (NJ)	Thompson	White
Smith (TX)	Thornberry	Wicker
Smith, Linda	Thune	Wilson
Snowbarger	Thurman	Wolf
Snyder	Tiahrt	Woolsey
Solomon	Tierney	Wynn

□ 2003

The CHAIRMAN. On this rollcall, 352 Members have recorded their presence by electronic device, a quorum is present, and the Committee will resume its business.

Mr. LEWIS of California. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I ask for this time simply by way of saying that we have just been through one of the more phenomenal experiences I have ever experienced in the Congress, where spontaneously this body reflected upon their own reactions to one of our colleagues in a way that can only be the greatest of tributes to LOU STOKES and his family.

Mr. Chairman, for all the time I have been in the Congress, it has been my privilege to work with, get to know well, and now have as one of my finest friends—LOUIS STOKES. When I first met him, I knew immediately of the pride with which he looked to the work of his brother, Carl, in his great mayorship that really set a tone for the country.

Over the years, he has talked about others and the contributions they have made. Seldom, seldom could you even get a hint that he had any idea of the impact that he has had upon this body and upon the country.

So, it is my privilege at this time to yield to my colleague, the gentleman from Ohio, LOUIS STOKES.

Mr. STOKES. I want to thank my distinguished chairman of the subcommittee, the gentleman from California (Mr. LEWIS) for yielding to me. But more than that, I want to thank him for providing for me today the greatest day that I have ever experienced in the House of Representatives.

JERRY, you and I have had a very special friendship and a very special relationship as colleagues. I have enjoyed working with you. You are someone for whom I have great respect and admiration not only for your hard and tireless work efforts in this House but because you are bright and because you are caring and you are sensitive, you are trustworthy, and you are loyal.

You have been my friend. My wife Jay and I had the privilege of enjoying the friendship of both you and your lovely and charming wife Arlene, and it is something that I would cherish for all of my life.

Along with you, I want to thank the distinguished ranking member of the Committee on Appropriations, DAVE OBEY, with whom I have served now almost 30 years, and on some committees we sat right next to each other for many, many years, worked together on many projects.

I have known a lot of people in the House over 30 years. There is none for whom I have greater respect and admiration and none whom I consider more of a legislative giant than the gentleman from Wisconsin.

DAVE, I want you to know that I have enjoyed your friendship, I have appreciated it, I admire you for everything you stand for, and I appreciate all that you have represented to me and to your colleagues in this country. It has been a great honor serving also with you.

To BOB LIVINGSTON, our "big chairman," as we refer to on the Committee on Appropriations, I want you to know, Mr. Chairman, that you and I, too, have had an excellent working relationship over the years. I served under 6 chairmen of the Committee on Appropriations over the 30 years. Twenty-eight years I have served on that committee. You have been an excellent chairman. You have not only been a friend to me, you have been someone who has always been courteous and fair and considerate. And all of us in this body have great respect and admiration for all that you stand for, not only this body but in this country, and I thank you for the privilege of serving with you.

To each of my colleagues who have spoken here this afternoon in what has been to me the greatest experience of my career, in the 30 years that I have served here, I have never seen the type of tribute that was accorded me this afternoon.

I have been touched and moved in a way that I would never forget. Your words today will linger on in my heart for the rest of my life. It will help embellish the enriching experience I have had of serving here with those of you whom I consider to be the finest people in the world.

I have oftentimes, sitting on the floor or standing in this well, pinched myself and asked if I was really here on the floor of the House of Representatives. I was not destined to be here. I was not one who was destined to ever serve in the House of Representatives.

As you have heard this afternoon from many of the speakers, I was born in Cleveland, Ohio, born in a family where a young woman and a young man fell in love and got married and had two children. Then, when I was 3 years of age, my brother was a year old, our father died.

So my mother was left a young widow who had only an 8th grade education. She had come from the South looking for a little better life for herself other than working in the cotton fields in Georgia. And here was a lady with only an 8th grade education with two young boys, one 3 and one a year old, to try and raise.

So she did the best thing she could do. She became a domestic worker. She went out in the heights in the suburban areas around Cleveland, in the areas that I now represent in the United States Congress, the rich, wealthy, white people's homes, where she scrubbed their floors, served their dinners, took care of their children, washed their clothes, cleaned their windows for $8 a day and bus fare. And she found that she could not raise those two boys on $8 a day and bus fare, so she also went on welfare.

But during that period of time, she used to speak to both Carl and I and tell us to "grow up to be somebody." She used to tell us to "get an education." Her greatest dream was that those two boys would some day get a high school diploma. She knew that she could not send us to college. But in her dream, she wanted to see us both get a high school diploma. Because she had great faith in this country and she believed if these two black boys in Cleveland could just get a high school diploma that they could be somebody.

And she used to always say to us, "get something in your head so you do not have to work with your hands like I have worked with my hands all of my life." And I never really understood what my mother was talking about until one night she was very ill and I heard her in the bedroom moaning with pain and I went into the room and I sat down by the bed, and she was in such great pain that I reached out and grabbed both of her hands to try to give her some solace, some comfort.

□ 2015

When I felt those hard, calloused hands from scrubbing people's floors, I began for the first time to understand what she meant when she said, "Get something in your head so you don't have to work with your hands like I have worked with my hands all of my life."

I went on to get my high school diploma and was drafted into service in World War II. My brother Carl dropped out of school at 16. Carl quit school, went out to Republic Steel to get a job, sweeping floors. Shortly after I was drafted, he too was drafted into the service.

When I came out of service, I realized that I needed an education, I wanted an

education. Fortunately some people in the United States Congress whom I never saw, whom I never knew, had the vision to provide something called the GI Bill of Rights. And so I took advantage of that.

I went home one night and told my mother that I was going to go to college and she said, "Well, what would you do?" And I said, "I get $95 a month and I'm going to go to Western Reserve University full-time." She said, "You can't do that. You have to go to work." She said, "I've spent all these years just trying to get you and your brother a high school diploma. I need you now to help me."

She was right. And so I went and got a job. And I went to college nights. I worked a job all day and went to college nights. I went on from there to law school. I went to law school, worked a job all day, went to law school five nights a week, sat in law class from 6 to 10 every night and studied all weekends in the library.

Carl when he came out at 21 years of age went back to East Tech High School because he saw I was going on to college. He went back to high school at 21, got his diploma, followed me then into college. Much of the rest is history. He went on to become the first black Democrat to ever be elected to the Ohio legislature, then became the first black mayor of any major American city. He served two terms. He went on to New York, he became an award-winning Emmy TV anchorman. He came back to Cleveland, went back in the practice of law, got elected to a judgeship, and then President Clinton appointed him as the United States ambassador to the Seychelles.

I on the other hand spent 14 years practicing law as a criminal trial lawyer. I had the opportunity to participate in three cases in the United States Supreme Court and, as you have heard on the floor today, argued Terry v. Ohio which has become a landmark case in criminal constitutional law.

In this body, I was given some very historic assignments: The privilege of chairing the Ethics Committee twice where we handled Abscam cases. We handled the sex and drug cases involving Members of Congress and the pages. The last case we handled was that of Geraldine Ferraro when she was running for the vice presidency of the United States. I was given the privilege of chairing the Assassinations Committee investigating the assassinations of two of the greatest men, two of the greatest Americans who ever lived, President John F. Kennedy and Dr. Martin Luther King. I was given the privilege of being the first African-American to chair the Intelligence Committee of the House. The only African-American that served on the Iran-Contra committee. I was a part of the team sent to Grenada to investigate the invasion by the United States of that tiny island Grenada.

And so I have had a great and wonderful and historic career here. This is why on so many occasions I have pinched myself to ask that this man, brought up in the housing projects of Cleveland, my mother scrubbing floors, winds up standing in the well of the United States Congress.

Today as I say farewell to the House, having had the privilege of working on my last VA-HUD bill, I can only say to all of you that I am proud that I am an American. No matter what gripes we have, this is the greatest country in the world. The story I have recited to you today of the Stokes brothers could only happen in America. Only in America, Mr. Chairman. Only in America.

Mr. LEWIS of California. Mr. Chairman, I proudly yield back the balance of my time that LOUIS STOKES and I had together.

The CHAIRMAN. The bill is open to amendment from page 52, line 3 to page 65, line 16.

Mr. GREENWOOD. Mr. Chairman, I move to strike the last word.

As many Members know, I have submitted an amendment that would amend the language in the bill submitted by the gentleman from Michigan (Mr. KNOLLENBERG). The gentleman from Michigan's language makes it clear that no funds appropriated to the Environmental Protection Agency could be used in the implementation or contemplation of implementation of the Kyoto protocol.

In discussion with the advocates for this language on both sides of the aisle, the gentleman from New York (Mr. BOEHLERT), the gentleman from California (Mr. WAXMAN) and others, I have decided, Mr. Chairman, not to offer my amendment, but I would like to take this time to address the House as to why it is that I thought it was important to offer this amendment in the first place.

The issue of the Environmental Protection Agency's activities with regard to greenhouse gases has created suspicion on both sides of the argument. Suspicion on the part of industry that the Environmental Protection Agency would take a backdoor approach to implementing Kyoto. That is a legitimate concern. In fact, the United States Congress, namely, the Senate, has not given the authority to the Environmental Protection Agency to implement Kyoto and it should not do that without the proper authorization. On the other hand, Mr. Chairman, the environmental advocates in this country are concerned and have a deep suspicion on the other side, and that is that the Knollenberg language would not be used simply to prevent EPA from implementing Kyoto but in fact would stand in the way of the Environmental Protection Agency's legitimate role in studying greenhouse gases and modeling CO_2 throughout the atmosphere and implementing voluntary reductions and promoting technology that would reduce carbon dioxide and in fact regulating other pollutants such as mercury in a way that has the least impact on the emissions of carbon dioxide.

Why is this important, Mr. Chairman? Why is it so important that we ensure that the Environmental Protection Agency is not stripped of these powers? Mr. Chairman, regardless of where one stands on the issues of climate change, there are certain facts that are absolutely beyond scientific dispute. One of them is that we are carbon-loading the atmosphere. We have been carbon-loading the atmosphere since the dawn of the Industrial Age. The percentage of carbon dioxide in our atmosphere is now 20 percent over what it was before the Industrial Age began. The biosphere in fact consumes carbon dioxide and turns it into oxygen. Some of my colleagues and others have said, "Well, that is the harmless and natural state of the planet." Well, it is except to the extent that the human race in burning fossil fuels, coal, oil, gas, wood at an increasing and dizzying pace over the last 100 years has increased the carbon dioxide emissions into the atmosphere far more than they can be consumed by the biosphere, and the trends are known that this will get worse until we humans learn to build societies that can meet the needs of our people without unbalancing that thin and precious and delicate layer of the atmosphere that allows us to live in this thin band of temperatures in which humans and other life on this planet can live.

Mr. Chairman, we have to lead the world in research on global change, climate change. We have to lead the world in research on greenhouse gases. We cannot shrink from that. We cannot be in denial regardless of the interests that would have us do that. Some of my colleagues in the earlier debate this morning talked as if it were clear that we are experiencing global warming today. We cannot prove that, Mr. Chairman. We do not know that. What we do know is that this planet and its life is far, far too precious for us to be cavalier about this issue. Our children certainly will live in a world affected by what we do in our generation, in our time with regard to greenhouse gases.

Mr. Chairman, I will not offer this amendment this evening, but those of us who care passionately about this issue will watch the effects of the Knollenberg language. If the Knollenberg language does what its advocates purport it to do, and, that is, to simply prevent the implementation of Kyoto in ways that are unauthorized, then that will be fine and we will move on from there. But if this language, Mr. Chairman, is used to subvert EPA's legitimate role in studying carbon dioxide and other greenhouse gases, then we will be back here next year and we

will fight and we will not withdraw amendments because we stand firm on the proposition that the Environmental Protection Agency must lead this Nation in the study of this phenomenon.

□ 2030

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GREENWOOD) has expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mr. GREENWOOD was allowed to proceed for 5 additional minutes.)

Mr. GREENWOOD. Mr. Chairman, I am happy to yield to my colleague, the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I want to identify with the outstanding statement of my colleague from Pennsylvania who has been a leader in this area.

Mr. Chairman, I rise in strong support of the intent of the Greenwood amendment. While my colleague will not formally offer the amendment, it's important to understand precisely what is at stake in this critical debate.

This debate is not about the Kyoto Protocol. The Kyoto Protocol could not—and should not—be ratified in its current form, and no one should behave as if the treaty has been ratified. On that there is total agreement.

The problem is this: the fact that Kyoto is not acceptable right now doesn't mean that climate change is not a potential threat. It doesn't mean that we know everything we need to about greenhouse gas emissions. It doesn't mean that we shouldn't be encouraging actions that would reduce greenhouse gas emissions.

So how do we strike a balance? How do we ensure that Kyoto is not implemented while still allowing sensible research and planning and thinking about greenhouse gas emissions to go forward? The answer is: we strike a balance by supporting the Greenwood approach.

The Knollenberg language is a classic case of overreaching. In their zeal to prevent "back door implementation" of Kyoto, the Knollenberg backers have come up with a provision that is so broad that it would, in effect, prevent informed debate and sensible information gathering related to climate change. The report language accompanying the provision makes this intent clear by explicitly directing EPA to stop discussing "policy underlying" Kyoto.

What kinds of positive activities would the Knollenberg language stop? It would stop efforts to find out more about who is emitting greenhouse gases and about how those might be controlled. It would stop intelligent planning under which EPA would ensure that controlling other pollutants did not make greenhouse gas emissions worse. It would stop efforts to develop some programs to encourage industry to reduce emissions voluntarily. It would stop planning the other body has requested to help determine the costs of complying with Kyoto. I could go on and on.

Does it make sense to stop such defensible activities? What are the Knollenberg supporters so afraid of? It seems that they believe that any new information about climate change will weaken their case.

And remember, it's not as if Congress is powerless to influence policy absent the Knollenberg language. If the Administration did something foolish, such as try to declare carbon dioxide a criteria pollutant under the Clean Air Act, Congress has ample means to block such action without the Knollenberg rider.

So it comes down to this: regardless of how you feel about Kyoto, regardless of whether you can imagine some policy you might want to block, you need to support for Greenwood—that is, unless you disagree with the vast majority of scientists and believe that there is no chance at all that climate change is a threat.

Support for Greenwood is not necessarily support for Kyoto. Greenwood does not give the Administration carte blanche. Greenwood wishes to allow open, informed debate on climate change to continue. It represents the sensible middle ground. It has earned my colleagues' support.

Mr. GREENWOOD. Mr. Chairman, I yield to the gentleman from California (Mr. WAXMAN) if he wishes to comment.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend him on his statement. I think the gentleman's amendment is one that should be passed by the House, but I respect the fact that we are going to let the process move forward on this legislation.

I think 50 years from now, people would look back at the appropriations bill with dismay if it were to stay in its present form, because, as I read the bill that came out of committee, the Environmental Protection Agency and the Council on Environmental Quality would be restricted from educating and conducting outreach and holding informational seminars on policies underlying the protocol relating to the Kyoto Conference. And not only that, it would be prevented from thinking through and developing proposals to deal with the global climate questions.

The amendment we just adopted a while ago offered by the gentleman from Wisconsin (Mr. OBEY) would have struck, did in fact strike the most egregious parts of the committee's recommendation to us. I would hope that, as this bill moves forward, there will be other approaches that will assure those who are anxious about this matter that the treaty, if there is one, will not be implemented until it is ratified. We do not implement laws that have not been passed, and we do not allow executive branch agencies to adopt regulations to enforce treaties that have not been ratified.

I think it is a mistaken notion for fear that that treaty would be implemented in any way to stop EPA and the CEQ from going forward and thinking about strategies and developing plans.

So I want to identify myself with your comments and to express the fact that we made a step in the right direction with the Obey amendment. I think we need to go much further on this issue when the bill moves into conference.

As I understand it, the Senate has a different approach. Even Senator BYRD has a different approach than what is in this legislation. I would think it would be doing a disservice to the American people if we stopped everybody from looking at this problem because the problem is not going to go away.

Mr. CAMP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the chairman of the subcommittee in a colloquy, but first I would like to thank the chairman for all of his hard work on a complicated and important appropriations bill which funds the Department of Veterans, Housing and Urban Development, and independent agencies. I would also like to commend his staff who have so diligently worked with me on an important issue concerning my district.

Mr. Chairman, I understand that the report language to H.R. 4194 indicates that the EPA should take no action which will utilize dredging as a remediation tool until a joint EPA-National Academy of Sciences study has been completed and analyzed. This study is needed to help determine in what situations dredging is an appropriate method of remediation.

The EPA has recently signed an action memo to begin a dredging project of the Pine River in St. Louis, Michigan, in my district. St. Louis badly needs EPA action, which includes dredging, to save this important river.

It is the gentleman's understanding that the language in the report is not intended to prevent dredging in the case of the Pine River project and that he will work to address this issue further in conference?

Mr. Chairman, I would yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, first, let me express my appreciation for the gentleman's cooperation and the work that we have been able to do together on this matter. Yes, it is my understanding, as you have outlined. As we move to conference, I would be happy to work with the gentleman to address the issue further.

Mr. CAMP. Mr. Chairman, I thank the gentleman from California for his commitment to our Nation's environmental resources and again for his hard work on this bill.

AMENDMENT OFFERED BY MR. WAXMAN

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

The Clerk read as follows:

Amendment offered by Mr. WAXMAN:

Page 59, after line 12, insert:

Any limitation on funds in this Act for the Environmental Protection Agency or the Council on Environmental Quality shall not apply to:

(1) regulatory determinations for mercury emissions from utilities;

(2) utilizing dredging as a remediation tool;

(3) implementation of the Food Quality Protection Act;

(4) implementation of the Regional Haze Program; or

(5) cleanup requirements for facilities licensed by the Nuclear Regulatory Commission;

where such activities are authorized by law.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. WAXMAN. Mr. Chairman, since the beginning of 1995, the House has produced a steady stream of assaults on the environment. Bills have been introduced to repeal the Clean Air Act, simply repeal it. Riders have been snuck in to must pass legislation, particularly appropriations bills, to cripple protection of endangered species, exempt oil refineries from air pollution laws, and block the Environmental Protection Agency from regulating arsenic levels in our drinking water.

Earlier this year, I had thought that the House would finally halt its war on our environment. I had hoped that the sneak attacks on the environment would cease, and I would hope that we would reject the antienvironment extremism that is so out of touch with American values.

Unfortunately, it seems that, once again, our environment is being attacked. As in years passed, the VA-HUD appropriations bill contains antienvironmental riders in both the bill and the report accompanying this legislation which would hinder our efforts to protect the environment under existing successful programs.

Specifically, there is language that would prevent the cleanup of PCB-contaminated sediments, stall implementation of our pesticide safety laws, prevent adequate cleanup of old nuclear facilities, interfere with efforts to control air pollution in our national parks, and block controls of dangerous mercury air pollution.

These riders do not belong in this legislation. This is a bill to fund the EPA and other agencies. They do not belong in this bill, and they are all an affront to every person who cares about the quality of the air we breathe and the water we drink.

My amendment would prevent a rollback of our important and popular environmental programs. It would strip out the environmental riders attached to this legislation. In effect, it would halt this attack on our environment.

One of the provisions of the bill and the report accompanying the bill prevents EPA from regulating emissions of mercury pollution. This provision is extremely damaging, not only to our environment, but to people's health.

Mercury is a known toxic pollutant of special concern to pregnant women. Important studies have been released this year on the massive mercury air pollution caused by emissions from power plants. Yet, despite these substantial threats for mercury, the report contains language which could block any regulatory determinations regarding mercury air emissions for years.

The report accompanying this bill also contains language which would block the cleanup of PCB-contaminated sediments. PCBs are known to cause cancer and contaminate large areas of the Hudson and Housatonic Rivers of the Northeast and a large area off the coast of California.

Many experts have called for removing this contamination through dredging, but the report language would prevent EPA from requiring any dredging, leaving the local communities contaminated.

There is also language that would make it hard for EPA to ensure that pesticides do not exceed safe levels in our food. In 1996, just 2 years ago, Congress unanimously passed legislation to make sure that all food is safe from pesticides that might harm infants and children.

We must allow this law to be implemented, not impede its implementation as the report would do. The goal of my amendment is simple. It would eliminate those and other objectionable antienvironmental riders.

Some of my colleagues urged me not to address global warming issues in this amendment, and I have modified my amendment so as not to address global warming. I believe it is essential to remove those extreme restrictions on the administration's ability to deal with global warming, but in deference to my colleagues, the global warming riders are not being addressed in this amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 3 additional minutes.)

Mr. WAXMAN. Mr. Chairman, the Knollenberg provisions are not affected in any way by this amendment. The riders my amendment addresses are contained in the report on this bill. Technically because these directives are report language, they are not binding on the agencies, but that is only technical.

It is, however, important to realize that they are a message to the agencies to not go forward with enforcing existing laws. That is why it is important to eliminate them in order to clarify that they should not affect the agencies in any way.

Mr. Chairman, Congress should be working to solve our environmental problems, not working so secretly to include antienvironmental provisions in appropriations bills at the request of many big polluters. Let us not roll back our environmental laws with these antienvironmental riders.

I urge all Members to support this amendment and give us a clean VA-HUD appropriations bill.

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

Mr. Chairman, very reluctantly I rise in opposition to this amendment by my colleague the gentleman from California (Mr. WAXMAN). As many of you know, HENRY WAXMAN and I have worked on a number of issues in the past that relate to the environment, and we have done things like sponsoring alternative fuels for clean air purposes. The gentleman knows of my work in connection with the clean air amendments in California.

But having said that, let me say that this amendment, together with some of the advertisements distributed by what can only be either misinformed or very extreme environmentalists within that community, is nothing less than a bizarre attempt to create controversy where none should exist at all.

To label the committee's direction to the EPA, direction that is contained solely within the report accompanying the bill, as somehow being a rider is about the furthest stretch of imagination that I can fathom. These folks are really scraping the bottom of the barrel if their primary objections would somehow raise report language to the level of statutory law.

But let me take just a few moments to specifically address some of the concerns raised in the Waxman amendment. With respect to mercury, the committee report directs the agency to, first, complete an ongoing Federal-State study on mercury transport in Lake Superior; secondly, complete another ongoing study on fish consumption and mercury ingestion; and, thirdly, enter into a final study agreement with the National Academy of Sciences in order to prepare recommendations on the appropriate level of a mercury exposure reference dose.

Mr. Chairman, these are not new issues. The committee is merely attempting to push the EPA to finish its research before issuing regulations.

With respect to utilizing dredging as a remediation tool for contaminated sediments, the committee last year asked EPA to contract with the NAS to conduct a thorough study of this method which was requested to be completed by April of 1999.

In part, this study was requested because EPA itself stated in a 1996 report that the preferred means of controlling sediment contamination risk is through national recovery. Subsequently, the committee has become aware of what may be a reversal of this policy. It occurred to us that maybe we

should let the NAS report shed some light on this matter before we allow EPA to stir up billions of cubic yards of contaminated sediments.

Regarding directions of the committee relative to the Food Quality Protection Act and the Regional Haze Program, the language merely suggests that the agency should follow both its spirit and the letter of the law in implementing these programs. The Regional Haze Program is a case in point.

The Clean Air Act sets up a regime for the States to develop visibility transport commissions in order to research and monitor visibility impairment. The law also requires EPA to report to Congress on visibility improvements achieved through implementation of other sections of the Clean Air Act.

These and other provisions of the law have been ignored by the agency, and the committee's language merely directs the EPA to get itself back on a firm statutory footing.

□ 2045

Finally, the committee's direction with respect to cleanup requirements for facilities licensed by the Nuclear Regulatory Commission would do nothing more than tell EPA to maintain the status quo with respect to regulatory oversight of nuclear facility clean up.

The Congress has given the authority to the NRC, not to the EPA. Not surprisingly, the EPA is trying to further enlarge its domain by claiming jurisdiction where they do not now have any. If the Congress in its wisdom wishes to give such authority to EPA, so be it. In the meantime, however, this body should not allow the Waxman amendment to circumvent the law and permit his favorite government agency to grow even larger.

Mr. Chairman, these and other directions of the committee as contained in the report accompanying H.R. 4194 are intended to put the EPA back on a path of following the law. None of these directions reinterpret the law in any way. None of these directions put a political or partisan spin on what EPA is expected to do. But, for the life of me, Mr. Chairman, I cannot understand why anybody in this body would want the EPA to ignore the laws that Congress has passed. For the life of me, I cannot understand why anyone would want this agency to enlarge its domain through its interpretation of what the law means. Yet that is exactly what my colleague from California by way of this amendment would allow to happen.

I strongly urge that the gentleman withdraw his amendment, and, if not, that it be soundly defeated.

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

Mr. Chairman, first let me point out that one of the items mentioned here, the regional haze regulations, are in fact one of the areas where we are concerned that EPA may be preceding to implement a global warming policy without that Kyoto Protocol being ratified by the Senate. We have not definitively heard back from the agency on that because they have not yet complied with our request for information on the oversight hearing, but it is an area of great concern to us.

Let me also say, harking back to the amendment by the gentleman from Pennsylvania (Mr. GREENWOOD), which he withdrew, I appreciate his doing that. I will include my statement to be put into the Record following the discussion of that subject, including a list of all of the countries and whether or not they are covered by the treaty and the study and the state-by-state breakout of the economic costs.

Mr. Chairman, I would at this point yield to one of my colleagues, the gentleman from Pennsylvania (Mr. PETERSON) the balance of my time for his remarks on that subject.

Mr. PETERSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. McINTOSH. I yield to the gentleman from Pennsylvania.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, it has been interesting tonight as we have heard the discussion here about a number of issues dealing with EPA, an agency that I find sometimes more troubling than the IRS. They have one of the most important jobs in this country. But if you ask your local communities, you ask your state agencies, you ask anyone who deals with them, they are one of the most difficult.

One of the issues that was shared here a short time ago was that the Knollenberg language was going to prevent the EPA from doing their job. This administration asked in this year's budget for $6.3 billion on the Kyoto treaty and global warming. Now, they claim they do not want to implement, but many Members have said they are going to implement and they have done many things that would start that process.

$6.3 billion is almost equal to the EPA budget. I guess that is beyond my imagination, that a government would ask for $6.3 billion to market a theory, "global warming."

When this issue started, I asked one of the top climatologists in America, who was having lunch with me downstairs, if there was global warming, because I wanted his opinion. Without any doubt he just looked at me and said, "There is no evidence, and I have been in this business all my life."

I want to share with you that climate researchers do not agree whether the earth will become warmer during the coming century. Seventeen thousand scientists have recently signed a petition stating that man-caused climate change does not exist, 17,000.

The petition states, in part, "we urge the United States Government to reject the global warming agreement and other similar proposals. The proposed limits on greenhouse gasses would harm the environment, hinder the advance of science and technology, and damage the health and welfare of mankind."

"There is no convincing scientific evidence that human release of greenhouse gasses is causing or will cause catastrophic heating of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produces some beneficial effects upon the natural plant and animal environment of the earth."

One of the reasons for such certainty and optimism about the future of these 17,000 scientists is that both written and oral history informs us that between 900 AD and 1300 AD, the Earth warmed by some 4 to 7 degrees, 4 to 7 degrees Fahrenheit, almost exactly what the current computer models now predict for the coming century.

Did this warm period produce the catastrophe being sold to us by alarmists? It did not. The warming created one of the most favorable periods in human history. Crops were plentiful, death rates diminished, and trade and industry expanded, while art and architecture flourished. There was less hunger, as food production surged because winters were milder and growing seasons longer. Southern England developed the wine industry, and Viking settlers pastured cattle in Greenland on what is today frozen tundra. Soon after 1400, however, the good weather ended and the world dropped into what is called the Little Ice Age.

Recently Dr. Sallie Baliunas, an astrophysicist with Harvard-Smithsonian Center for Astrophysics and one of the Nation's leading experts on global climate change, believes we may be nearing the end of a solar warming cycle, and that there is a strong possibility that the Earth will start cooling off in the early part of the 21st Century.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. McINTOSH) has expired.

Mr. McINTOSH. Mr. Chairman, I ask unanimous consent to proceed for two additional minutes.

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

Mr. WAXMAN. Mr. Chairman, reserving the right to object, I do so only for the purpose of informing the gentleman that this amendment contains nothing on global warming. That was discussed as a possibility in this amendment, but, as I announced in my opening remarks, we withdrew that particular section from the amendment. So we are not dealing with the global warming question.

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. McINTOSH. I yield to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, it says we may be nearing the end of a global solar warming cycle, and that there is a strong possibility that the Earth will start cooling off in the early part of the 21st Century.

Still none of the global warming computer models, the foundations for nearly all the claims that warming is the result of man-made greenhouse gasses, account for solar variability, and none adequately account for the interaction between the oceans and the atmosphere, or the addition of a large portion of the very warm South Pacific to the worldwide grid of temperature reporting stations in the past half century. Also, satellites and weather balloons that have been tracking temperatures for the last 20 years show a slight cooling.

I would like to conclude my comments by saying we have 16 agencies being funded by the EPA to propose and sell the global warming advocacy. The Greenwood amendment, which was before us a little while ago, in my view, I was very pleased that he withdrew that, because it really cleverly destroyed the well-crafted Knollenberg language that was so vital.

The interesting thing I would like to say, in conclusion, the Kyoto treaty is so flawed, if all of the countries that have agreed to bring it to their governments for approval follow it to the hilt, the developing countries, the 132 which are the growth areas of the world will more than make up for the savings. There will be no change.

It seems pretty flawed for Americans to take it in the neck and let the developing world steal our jobs. There are many who feel that as many as 1 million American jobs will move to Third World countries, where there will be no controls, where there will be no penalty paid, and our American workers will take it in the neck.

It is an ill-conceived treaty. I think it is time to send someone to the next treaty, besides AL GORE, to negotiate a treaty that is a fair to American workers.

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

Mr. Chairman, I think that my colleague, my friend from Pennsylvania who preceded me, points out by example the reason we should not have the type of language in this bill. In fact, I know it is a time-honored tradition of the Committee on Appropriations to try and micro-manage and administer the specifics of many laws, but the fact is, when I voted for these laws, that is what I meant. I meant that I wanted our Superfund dollars used to clean up the problems.

This bill prevents the use of the brownfields dollars to clean up. I wanted the mercury out of our air. That is what I wanted the EPA to do. This particular provision stops the EPA from implementing the removal of mercury and of necessary standards for utilities. I wanted the PCBs that are lining our lakes and waters and riverways cleaned up so that it was not in our waters and riverways. This particular provision in the bill before us micro-manages the EPA and says you cannot do that particular dredging.

When I voted for the Food Quality Protection Act, I wanted the pesticides out of our food, as did almost every other Member. And I do not want some staff member or other groups that are there making a contrary decision in appropriations report language, I want the EPA, the scientists and the other professionals, to set those pesticide standards so that I am not eating such pesticides, and so do the people I represent.

When we voted for the Clean Air Act, we wanted to in fact be able to see the Grand Canyon and the other vistas that are on our American landscape; not putting this off and postponing it and frustrating the implementation of these laws.

Finally, of course, we do want our radioactive waste materials cleaned up. For my part, I think the Nuclear Regulatory Commission needs a challenge to the type of job they have done in the past, and I think the EPA is pursuing this. I do not want to strip them of some responsibility with regards to radioactive wastes.

So I hope my colleagues will look at this, and recognize the importance of letting the administrators and others that are supposed to administer and implement our laws do their job, and not be frustrated and hamstrung and limited by these inappropriate type of second-guessing that is going on here, and often I think with the type of scientific analysis I heard here on greenhouse gasses preceding me.

That is not the type of effort, that type of guessing, that type of unusual theories that seem to abound, that I want guiding and implementing our laws. I want the EPA and the administration, and they are held accountable, incidentally, by courts and by results and regulations and open hearings. Once that process gets done, which is sometimes very, very long lengthy, takes a long time, I do not want the Committee on Appropriations coming back and pulling the rug out from under them and then frustrating the implementation of the laws.

That is what is happening in this instance, and that is why we need to vote up the Waxman amendment or defeat this bill.

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

Mr. Chairman, I rise in very, very strong support of the Waxman amendment. I do so because passage of this amendment is critical to moving forward on a number of important environmental issues, including a matter close to the hearts of many New Yorkers, cleaning up the Hudson River.

Among the many egregious legislative riders tucked into this bill is a provision which would delay cleaning up PCB contamination in the Hudson River, as well as the Housatonic River in Massachusetts and Connecticut. Thanks to 30 years of PCB discharges, the upper Hudson River has the distinction of being one of the Nation's largest Superfund sites. Not surprisingly, the upper Hudson River has also been designated as one of the most endangered rivers in the United States by North America's leading river conservation organization, American Rivers.

□ 2100

PCB contamination in the Hudson has taken a huge toll on the River's economic recreational and environmental resources. Fish caught throughout 200 miles of the river are contaminated at unsafe levels. As a result, the river's commercial fishery industry, valued at more than $40 million annually in 1976, has been almost completely closed down.

In addition, PCBs from the upper Hudson are responsible for about half of the sediment PCB contamination in New York Harbor. This contamination greatly increases the cost of dredging the harbor, which is so critical to the economic vitality of the New York metropolitan region.

Most troubling is the threat to public health posed by PCBs. These chemicals have long been regulated as human carcinogens, and scientific evidence continues to mount about PCBs' impact on disease resistance, reproduction and cognitive development. For example, studies of PCBs in the Great Lakes region have shown startling effects on the birth weights, cognitive abilities and emotional stability of children exposed in utero.

The EPA has spent years examining the Hudson's PCB contamination in order to develop an appropriate cleanup plan. This process is already years behind schedule, and that is bad enough. We certainly do not need more delay, but that is just what this bill will do, and that is why I urge support of the Waxman amendment, so that the long awaited cleanup of the Hudson can move forward.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentlewoman for

yielding, for I know that she is very, very seriously concerned about the questions that she has raised, especially about the Hudson. I think the gentlewoman also knows that EPA has not spent years figuring out whether dredging is the best way to solve that problem.

We are just suggesting, not in statutory language, in report language, that EPA follow the direction of the Congress and the law. Report language, as the gentlewoman knows, is not law. It is just trying to get their attention, because they have been off track on this issue and on many other issues for too long now.

So I urge the gentlewoman to actually look at our report language.

Mrs. LOWEY. Mr. Chairman, reclaiming my time, I would just like to say to the Chairman, having worked on this issue since the 1970s when there were many, many different heads of EPA, I am aware of the complexity of this issue.

There have been serious debates on whether dredging or remediation or covering the PCBs is the best method to move forward. However, as I understand it, the report was completed last year, reading from a letter from the current head of the Environmental Protection Agency, Ms. Browner, and there are areas, such as in the Housatonic, smaller areas, where they could move forward on the dredging.

However, there is concern, and I would appreciate any further elaboration, that this language does hold up that process. Because of the complexities of a river such as the Hudson, they are still determining which is the best method, and I believe that study will not be completed until the year 2000.

Mr. LEWIS of California. Mr. Chairman, if the gentlewoman will continue to yield, I certainly would not want to interrupt the process here, but I think the gentlewoman knows that the National Academy of Sciences report is not due until April of 1999, and, indeed, this is report language that simply puts the needle where it ought to be applied, to this agency that tends to want to do its own thing, almost regardless of what the law says or what Congress says.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I would like to inform the gentleman from California (Mr. LEWIS) that the National Academy of Sciences last year issued an authoritative report on cleanup strategies for contamination.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. LOWEY) has expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mrs. LOWEY was allowed to proceed for 1 additional minute.)

Mrs. LOWEY. Mr. Chairman, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, just last year the National Academy of Sciences issued this authoritative report on cleanup strategies for contaminated sediments. So this is just simply, they say, a provision in the bill asking for a study.

Well, they are asking for another study and they are telling EPA, do not do anything, after all these years of studying, after all the years of working on this problem with the National Academy of Sciences telling us that there are strategies that we ought to be using to protect people from PCBs. For God's sake, that is what causes cancer, and they want to stop indefinitely the EPA from acting until another study and another study and another study. It is a dilatory tactic.

Mrs. LOWEY. Mr. Chairman, reclaiming my time, I would like to remind my colleagues that I began working on this issue when I was at the Department of State in the 1970s. EPA has delayed this and delayed this decision. We are concerned. As I said, the decision has been delayed and delayed because of the complexity of the issue.

As I understand it, the decision has just been delayed 18 months again, will not be completed, and the decision will not be made until after the year 2000. There is great concern from Carol Browner that this language would then delay it even further.

So for many of us who are concerned about this issue, who respect the complexity of the decision, we feel after this report has been filed, it is time to move forward, based on the scientific evidence and make an appropriate decision.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentlewoman yielding. The question really is by way of comment. The gentlewoman knows that there will be huge amounts of material if dredging is the way we solve this problem. As of this moment I do not believe EPA can tell us what they are going to do with that material. Maybe we are going to create another huge Superfund site, that they can have another area of activity to broaden their responsibilities. But, indeed, all we are doing is by way of report language, no weight of law, per se, nudging this agency to get back on track.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. LOWEY) has expired.

(By unanimous consent, Mrs. LOWEY was allowed to proceed for 1 additional minute.)

Mrs. LOWEY. Mr. Chairman, I would just like again to say to my distinguished chairman that we understand the complexity of the Hudson. It has already been delayed an additional 18 months, after many years of delay, but it is my understanding from Carol Browner that there are areas, such as the Housatonic, which could move forward, could be an important demonstration, so we can make an appropriate decision as to what to do with the Hudson, understanding the complexities, and this report language would just delay further.

Mr. LEWIS of California. Mr. Chairman, if the gentlewoman would yield further, in the Housatonic, I believe they are planning to dredge 12 miles of the river. I have no idea what they are going to do with that dredging material. But, in the meantime, it is amazing to me that my colleague from California would raise the statutory level, when the report language is simply trying to urge this agency to get back on track and follow the laws we have outlined.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, this language does limit the agency. I do not think it is binding, but they feel a limitation when the committee that is appropriating their money to stay in existence tells them not to do anything until you get another study, and this additional study would keep them from doing things like putting a cap on settlement of PCBs.

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

I oppose the Waxman amendment.

Mr. Chairman, I just wanted to take a couple of seconds, as I was unable to be here when this House paid tribute to the gentleman from Ohio (Mr. STOKES).

This last month I heard four of the greatest speeches of my life: The speeches of the gentlewoman from Connecticut (Mrs. JOHNSON); the gentleman from Indiana (Mr. HAMILTON); the gentleman from Illinois (Mr. HYDE) today; and certainly the gentleman from Ohio (Mr. STOKES).

Cleveland would not have transformed itself into the great city it is without Mr. STOKES, who never got the credit for that politically. Without LOU STOKES, Cleveland would not be the city it is.

Mr. Chairman, we will be through our committee finding a building to name to pay tribute to our great distinguished leader from Ohio, and I would ask all of my colleagues to cosponsor that when the building is selected.

Today I heard one of the finest speeches I have ever heard from the gentleman from Ohio (Mr. STOKES), and we are very proud of him.

With that, I oppose the Waxman amendment. I think the Environmental Protection Agency has got into a little too much all over our country, and I

think there is a balance between jobs and protection, and sometimes we have been a little zealous.

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

Mr. Chairman, I rise in very strong support of the Waxman amendment. This is the amendment that would allow the agencies covered by this bill to continue to carry out the laws of the land, as is their constitutional responsibility.

What we see in this legislation, whether it is in legislative language or whether it is report language, is we see a continuation of an assault by the Republican Party of the environmental laws of this country, the very basic, basic fundamental laws of this country, clean air and clean water.

They tried it once in a frontal assault in 1995. They were turned back by the minority in the Congress, and they were turned back by the American public. Since that time they have been having tree planting days, they have recognized the African elephant, they have tried to recognize the Year of the Ocean, and they have had Tropical Rain Forest Week, all of which was to suggest that they were environmentalists.

They have issued instructions to the Republican majority to plant trees, invite the press, try to show up at environmental events, to give themselves a "green" look. But when it comes to the hard ball legislation, they are right back at it.

In this bill, what they seek to do is to keep the Environmental Protection Agency of the United States of America from doing its job. What is its job? It is to protect the American public from the polluters who would pollute our waterways, our lakes and our streams, our recreational areas; it is to protect the American public from the polluters who would pollute our air as it moves across all jurisdictions. It is a national problem. Emissions in one area cause cancer and in another area cause asthma and in another area cause children to have serious health disruptions.

That is what its job is, is to protect Americans. It is the Environmental Protection Agency. It is to make sure that in fact Americans have the ability to have a quality of life that they think that they are entitled to. Maybe the Republicans do not support the Environmental Protection Agency, but over 80 percent of the American public supports the Environmental Protection Agency, because they know that it is all that stands between them and the corporate greed of the polluters, the same polluters who have polluted our streams and polluted our water, the huge corporate farms that pollute the waters of the central valley or the waters of the Midwest now as they run huge hog operations, the same polluters who dump into the Chesapeake Bay. They were not turned back by voluntary action.

San Francisco Bay was cleaned up and is being cleaned up because of the EPA. The Chesapeake Bay is being cleaned up because of the EPA. The Great Lakes are being cleaned up because of the EPA. The air today is cleaner in California than it was 20 years ago because of the EPA.

Now they want to strip that. Why? Because we have a very effective and tough administrator. They have dragged her up here time and again in front of numerous committees to beat up on her, and most of them do not have enough comprehension of the subject matter to ask a question. But they are going to continue to do it. It is a little disingenuous, unless one just showed up in Congress in the last week or two to say, well, this is just report language.

No, this is not just report language, this is a means by which, in a few months from now, if EPA does not do what they want to do, they will drag them up in front of the committees; they will accuse them of not carrying out the will of the Congress; they will beat up on the administrator; they will beat up on the regional people; they will tell them they are exceeding their authority. Why? Because they are trying to get to the Election Day, when they think they can take over the presidency and get rid of EPA. So they want to delay all of these projects, the cleanup of the Hudson River, the brownfields, the cleanup of the Superfund sites, the mercury emission standards, and all of the rest of it. They are trying to delay that. Why? Because their corporate clients want them to delay that, because they think they will get a better shake after the next presidential election.

This is fundamental politics. This is about our environment. This is about whether our children have a safe home, a safe environment and a safe school, because nobody volunteered to clean it up. They had to be taken to court and they had to have regulations issued, and that has been the 30-year history of this agency. It is what has made America better, it is what has made our schools safe, it is what has given our children the chance to have a decent neighborhood and to breath clean air, to reclaim the rivers that when I came to Congress were on fire, rivers we could not touch. When I came to Congress, they told us, "Don't touch the Potomac River." Today people water ski and they have crew races. That is because of the EPA.

Now, the oil companies do not like it, and the chemical companies do not like it, and the mining companies do not like it, and the big farmers do not like it. Who gives a damn? The American people like it. The American people like it, because they can see the tangible benefits.

So let us not pretend that this amendment somehow is only report language, that this is just an innocent effort.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER of California) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would caution the Member against the use of profanity.

Mr. MILLER of California. I thank the Chairman.

Mr. Chairman, this is not an innocent effort. This is going around through the back door, because politically they are afraid to go through the front door because they were turned back by the American people. When the American people understood what the Republicans meant by regulatory reform, they overwhelmingly rejected it and it was abandoned.

The American people know a good deal when they see it, and the Environmental Protection Agency is a very, very good deal for the American public.

□ 2115

It is a very, very good deal for the health of the American public, and it is a very, very good deal for the health of the American environment.

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

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

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

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from California (Mr. CALVERT) yielding to me. I asked him to yield to respond in part to the comments made by the gentleman from California (Mr. MILLER).

Mr. Chairman, I must say that my colleague knows very well of my involvement, my personal involvement, in environmental matters over the years I have been involved in public affairs. I wrote the law that created the toughest air quality management district in the country that others are trying to replicate—the South Coast Air Quality Management District. To suggest that we are not concerned about air and about these other matters, to say the least, extremism.

I further object to the gentleman from California suggesting that we would design these report language items in order to bring people before our committee and beat them over the head or otherwise. I do not know how the gentleman ran his committee when he was Chair, but we do not bring people in to beat them over the head.

We are in the business of responsibly developing public policy direction here, and to have that kind of frontal attack is not helpful, acceptable, or appreciated by this Member.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Waxman amendment and I thank the gentleman from California (Mr. WAXMAN) for offering this amendment and allowing me to speak on this amendment and doing what he has done on his committee, to protect our environment.

This amendment would eliminate controversial anti-environmental riders that threaten the public health and safety of citizens from my State of Connecticut and from States across this Nation.

This amendment would override language that interferes with agency actions to protect our environment and clean up hazardous waste materials in our rivers and in contaminated industrial sites known as brownfields.

The Waxman amendment is particularly important in my home State of Connecticut, because it will allow the dredging of the Housatonic River to clean the riverbed that has been contaminated with PCBs. The Connecticut Department of Environmental Protection and the Environmental Protection Agency have both stated that the prohibition on the use of dredging as a means to clean up the river pose a serious threat to the ability to take the next actions to control immediate threats to public health.

Exposure to PCBs is dangerous and poses health risks to intellectual functions, the nervous system, the immune and reproductive system. We in Connecticut know that the Housatonic is unacceptably polluted. It is unconscionable for the House to tie the hands of the EPA in an effort to clean up contaminated sites like our river and others like it across the country.

I am also pleased that the Waxman amendment would allow the EPA to issue regulatory determinations for mercury emissions. Mercury is highly toxic and exposure can cause serious neurological damage. It is critical that we permit EPA to take steps to control mercury emission into the air and into the water.

According to the Toxic Action Center, there is a mercury advisory for every single lake in the State of Connecticut. We need to control the release of mercury. These regulations are an important step toward cleaner air, cleaner water, a cleaner environment. I thank Mr. WAXMAN for offering this amendment this evening.

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

Mr. Chairman, I am in earnest support of the amendment offered by the gentleman from California (Mr. WAXMAN) because it would remove dangerous anti-environmental riders from this piece of legislation, as well as other aspects of the bill which would be very dangerous to the environment and very dangerous to public health.

There is report language, as has been discussed already, in the bill which directs EPA to take no action which will utilize dredging as a remediation tool until a referenced National Academy of Sciences study has been completed and distributed and analyzed by all interested parties. That is an issue which will bring about very substantial delay in the remediation of many places that contain PCBs and other contaminants.

The effect of this would prevent the EPA from dredging the Housatonic River of PCBs and will prevent the EPA from dredging the Hudson River of PCBs. And what will the effect of that be? The language in the report appears to be intended to promote indefinite delay. It does not tell the EPA to halt action until the NAS report is out; it orders delay until "all interested parties" have had time to analyze it.

The interested parties certainly include the polluters. In the case of PCBs in the Housatonic and the Hudson, that is the General Electric Company. General Electric favors a cheaper answer. GE analyzes every move EPA makes at great length. How much time will this financially interested party require to "analyze" this report? A long, long time I am sure.

What is at stake here? First, human health. PCBs are a known carcinogen in animals and a probable carcinogen in humans. They are also suspected of being a serious endocrine disrupter and of being responsible for other serious health problems.

New Yorkers have been strongly advised to limit their intake of local fish for this reason, and EPA has just announced additional funding to educate people about the dangers of locally caught fish. The contamination damages the fish and other wildlife in and around the river.

New Yorkers want the PCBs cleaned up. They do not want our river to be an experiment used by the General Electric Company, or anybody else, for their particular chemistry work.

The report language uses an earlier EPA survey of how to deal with contaminated sediments as the basis for the committee's direction. It implies that EPA's own science has concluded that the GE so-called "natural recovery" method is the best way. It should be clear that EPA does not agree with this interpretation of the study.

EPA points out that there are different kinds of PCBs, different kinds of deposits, different kinds of rivers, and there is no one solution that applies to all. EPA has been studying the Hudson River situation, reassessing it for years, and many of us have been unhappy with the repeated delays because of EPA's own painstakingly slow review.

We do not want further delays, and we certainly do not want the public health and the river's health left hanging while all interested parties are given more time to think about it.

Just today, new information has come out which reveal that the PCB deposits in the upper river of the Hudson are moving out. Forty percent of those deposits are moving out from where they are located, and 75 percent of those deposits that are moving out are becoming involved in the water column.

This information just out today tells us very clearly why all aquatic life in the Hudson River is now infected with PCBs. The PCBs in the Hudson River are ubiquitous. They are affecting every form of aquatic life. And we know how dangerous and damaging PCBs are. They cause cancer in animals. They are a probable carcinogen in humans. They cause abortions and they cause nerve disorders and endocrine disorders in human beings.

Mr. Chairman, this is a very serious problem. The delay that is contained in this legislation only prolongs the period where these PCBs will remain in the river, remain in the aquatic life, contaminate the estuary and the river basin itself, and become involved with people's lives and be damaging to public health.

That is why the Waxman amendment must be passed, because it deals forthrightly and directly with this problem and would remove this report language from the legislation.

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

Mr. Chairman, the gentleman from New York (Mr. HINCHEY), and several others, have focused in on the Hudson River where I happen to live. I have lived there for 40 years. I have raised my family there and my six grandchildren and my five children.

We drink the Hudson River water, and we have done quite well drinking that Hudson River water. Not only does my family drink that Hudson River water, but it is the auxiliary emergency supply for 8 million people in a place called New York City, which is 200 miles downstream from where I live.

About 40 miles upstream are cities like Poughkeepsie, Hyde Park and Red Hook and Rhinebeck and Hudson and all the way up to where I live. And we take our drinking water directly out of the Hudson River.

It is approved by the Environmental Protection Agency. It is approved by the New York State Health Department and the New York State Environmental Conservation Department, two of the toughest regulatory agencies in America. They are so tough, that they even take precedent over the regulatory EPA. Think about that.

I hear a lot of arguments about why these PCBs ought to be dredged.

First of all, I represent the twentieth largest dairy producing district in America.

Mr. Chairman, I know you represent a few cows, too. We represent a lot of corn growers and we represent a lot of apple growers. We live in the Rust Belt. From New York City to Albany, New York, is the old Rust Belt. We have lost all of our jobs. They have all moved either to Maquilladora out in Mexico or they have moved overseas to China. We had that debate yesterday.

I have constituents who now are in their forties and fifties, I mentioned this yesterday, and they worked all their life at manufacturing and now the manufacturing jobs are gone. They do not want to move out of the beautiful Hudson Valley. That is where they live. That is where their kids grew up. That is where their grandchildren are, but they cannot find jobs.

So what do they do now? Some of those people that were now making $40,000 a year, they now work for McDonalds and maybe they take home $15,000 a year on that job but they carry a second job and maybe they make an extra $10,000 there, and that is about it. They have lost half of their earning capacity.

Why would JERRY SOLOMON stand up here and argue against dredging PCBs? Well, first of all, back in the early seventies and I was a town mayor and then a county supervisor and a State legislator and now a Congressman, and I have been there where the General Electric Company used to put PCB-laden water into the Hudson River.

You know why they did it and how they did it? They did it with a permit from the Federal Government and they did it with a permit from the New York State Environmental Conservation Department. They were forced to do that because before that they were using, in making capacitors, they were using a formula that created fire hazards and something had to be done about it. It was dangerous. So they switched at the request of the Federal Government and the State government.

It was all legal, whatever they were doing, maybe you want to call it polluting but they were putting PCB-laden water into the river.

All of a sudden, one of the public utilities, like you have in your community, decided they wanted to remove a dam just below these factories and the Federal Government and the State government gave them permission to remove this dam. Well, this dam had been there for 100 years. Guess what was behind that dam? You cannot believe what was behind the dam. All of the stuff that had come down from all of the papermaking industries, and that is the only jobs practically we have left now, but all of the chemicals used had piled up behind this dam and some of the PCBs but, sure enough, when they were given permission to remove the dam all of this stuff began to flow downstream for awhile.

Most of it just went on downstream 200 miles and went out into the Atlantic Ocean and that was the end of it, but the bit that did not were 40 hot spots which are stretched over about a 40 mile area and those 40 hot spots have been silted over now for 30 years.

So what my good friend, the gentleman from New York (Mr. HINCHEY) and others are talking about happened 30 years ago. You would think that this happened just yesterday or last year or the year before. It happened 30 years ago. Those hot spots are silted over.

Now, why could we not just go in there and dredge those hot spots out? Let me tell you what would happen. We all know when we take a glass of water and we put some sand in it and then we take a spoon and stir up the sand, what happens? The whole glass of water has got sand all through it.

From New York City to Albany, we have a 34-foot deep water channel.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLOMON) has expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 5 additional minutes.)

Mr. SOLOMON. Mr. Chairman, we have a 34-foot deep water channel, as I was saying. It has to be dredged every year because the Hudson River, different from where I live because the Hudson River is only an inch wide where I start, when you get down to New York City it is a mile wide or more, but Hudson River has to be dredged. It has a sandy bottom. So we can get our oil barges up and we can get our feed grain barges and we can get our food supplies up the Hudson River by barge, we have to keep it open. So the Army Corps of Engineers every year comes in and dredges a portion of this 150-mile long 34-foot deep water channel.

If we were to go ahead and dredge the PCBs, which are laying there dormant, buried and will not surface unless there is some major, major flood that has not taken place in 100 years, they will lay dormant.

□ 2130

But if we go in and dredge them, what happens? And this is what the scientists will tell us. And this is what the National Academy of Sciences is going to tell us in about 4 or 5 more months. If we dredge the PCBs upstream, it raises the level of PCBs all along the 200 mile long corridor. Then we have to dredge the channel every year.

Now, presently, when we dredge that channel, and my colleagues have seen a dredge barge come up and they throw the sand on the lower banks of a river and then it is above water level, just above water level, and that dredging material volatilizes, gets into the air, goes into the corn and the apples and the crops that are grown along there, and there is no problem. But when we raise the level of PCBs downstream, not only do we begin to affect the water supplies, which are healthy now and there is no problem from any of these regulatory agencies about it, about the drinking water, now where are we going to put these dredge materials? If we throw it on those lower banks and it volatilizes, we are then putting PCBs over a 200-mile long stretch.

Now, what do we do? We either do not dredge the Hudson River or we encapsulate these dredgings about every 30 or 25 miles along the river all the way up to where I live. Now, 57 municipalities representing about 700,000 people have come out with resolutions saying please do not dredge this Hudson River. Please do not do this. The New York State Farm Bureau, and the New York State Department of Agriculture have all come out and said do not dredge the Hudson River until we know for sure that there is not a better way.

The better way is contained in this report language, which is not law, as the gentleman from California (Mr. JERRY LEWIS) has said. The report language simply says, and I would just say to my good friend, the gentleman from New York (Mr. HINCHEY) and others, where were they last year when this language was ordered in the report? Not a word was raised on this floor about asking for this study that will be completed in about another 8 months. Not one word was raised on this floor.

Let me briefly just read the actual language so we all understand what we are voting on here. The language says, "The committee is aware of EPA's draft National Sediment Quality Survey issued in July of 1996 in which the agency concluded," listen to this, "the agency concluded, among other things, that the preferred means of controlling sedimentation contamination risk to human health and the environment is through natural recovery." Natural recovery.

"Despite this," this is continuing with the language, "Despite this conclusion, however, dredging is currently being considered as a remedial tool, even though the impact of such an invasive approach is often unknown. Last year the committee directed the agency to enter into an arrangement with the National Academy of Sciences to conduct a review which evaluates the availability, effectiveness, cost and effects of technologies for the remediation of sediments contained in these kinds of things."

Then it goes on and it says, "In light of this, the committee directs the agency to take no action which will utilize dredging as a remedial tool until this study has been completed and distributed and analyzed by interested parties, including Congress."

Now, let me tell my colleagues something. My colleagues have heard about 700,000 people that are opposed to this and all these municipalities. Who

wants this dredging to take place? I can tell my colleagues who it is. It is a very, very small group, and we can count them on our fingers and toes, of some extreme environmentalists down in Westchester County or someplace down there who really want to upset the lives of all of these farmers that I represent up river. That is who is for this. Nobody else is for it. So all we are asking, in other words, all I am asking, is that we wait until April of 1999.

Now, Mrs. Browner has already agreed to do this. She has agreed with me, with a quid pro quo and with others, with the New York State Farm Bureau, that we will wait until the year 2001.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLOMON) has again expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

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

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. HINCHEY. With regard to the report language, the gentleman knows full well that there was an earlier attempt to put that specific same language in the ISTEA bill. This House passed that bill. We were successful in getting this language, this anti-dredging, anti-environment, pro-pollution language out of the ISTEA bill over in the Senate.

That having been done, now some people are coming back here putting this anti-environment——

Mr. SOLOMON. I will just have to reclaim my time.

Mr. HINCHEY. Pro-pollution language——

Mr. SOLOMON. I ask for regular order.

Mr. HINCHEY. Into this bill.

Mr. SOLOMON. The gentlemen are out of order.

The CHAIRMAN. The gentlemen will suspend.

Mr. SOLOMON. I have reclaimed my time.

The CHAIRMAN. Both gentlemen will suspend.

Mr. SOLOMON. The gentleman knows better than that.

The CHAIRMAN. The gentlemen from New York will suspend. The gentleman from New York (Mr. SOLOMON) reclaims his time and may proceed.

Mr. SOLOMON. Mr. Chairman, as I was about to say, Helen Browner and the EPA have entered into a quid pro quo where they will wait until the year 2001, until we know exactly what the results are, and then they will take some action.

Now, the only problem is we have these environmentalists that are stirring things up, they are trying to stir up the Hudson River, but they are stirring things up and now they are trying to get her to change her mind. So that is why we ought to defeat this amendment.

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

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

Mr. LEWIS of California. I would like to say to the gentleman, Mr. Chairman, that the time he has used has been very valuable to the debate. It was a very articulate presentation of the real world, where the gentleman lives and, frankly, it is helpful to the discussion and a very positive contribution.

Mr. SOLOMON. Mr. Chairman, I invited all my colleagues to come up to my district and have a drink of water. They will love it.

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

Mr. Chairman, I am here today in support of my colleagues from Maine and California and everywhere in between who are trying to ensure that the Environmental Protection Agency has the ability to make the regulatory determinations for mercury emissions from utilities.

The committee report contains language that limits the ability of the EPA to issue rules on mercury emissions. We are working to make sure that such restrictions do not apply to activities authorized by law.

I would like to emphasize a few points. The health risks of mercury are proven and they are significant. They are threatening society's most vulnerable: Pregnant women and young children.

Mercury has spread and accumulated far throughout the United States. Officials in a total of 39 States have warned their citizens about the danger of consuming fish caught in streams, rivers, ponds and lakes. The fish contain levels of mercury that trigger the warnings. In about a dozen States every single body of water is posted with a health advisory.

Earlier this year the EPA released a report to Congress in which it identified mercury emissions as a hazardous air pollutant of greatest concern for public health, and EPA's scientists offer additional monitoring of emissions from power plants.

The provisions in this bill and language in the report would prevent the EPA from even gathering that data; that information that is needed to better gauge the scope of the problem.

Last spring the Maine legislature passed and the governor signed landmark legislation that would slash emissions of mercury from in-State sources. We are taking care of our own. The people of the State of Maine are looking upwind to see what steps are being taken in the regions that produce the emissions.

Last month the governors of New England and the premiers of Eastern Canada called for, and I quote, "The virtual elimination of discharges of mercury from human activity into the environment."

One of the key components of their action plan was the recommendation for more research, more analysis and strategic monitoring. They saw the need to identify and to quantify sources of mercury deposition. They want to monitor deposition patterns and to develop ways of measuring and tracking progress.

The report would prevent the EPA from providing assistance in the cross-border effort. The report would prevent the EPA from taking the steps that are essential to protect the health of young children and women of child-bearing age.

Mr. Chairman, I urge the adoption of the amendment.

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

Mr. Chairman, it appears from this discussion that the only thing that Congress fears is fear itself. We are afraid of existing law because the existing law is feared by special interests. We fear the cleanup of licensed nuclear facilities. We fear the cleanup of the air in Yosemite and the Grand Canyon, the hazy air. We fear the pesticide manufacturers, who oppose the implementation of the Food Quality Protection Act. We fear, as we have heard, New York and New England industries who oppose the dredging as a remediation tool. We fear the utilities, who oppose the regulatory determinations for mercury emissions. Most of all, we seem to fear our very own Environmental Protection Agency and the Council of Environmental Quality.

My colleagues, this fear can be conquered. It is very simple. It only requires that we vote in favor of the Waxman amendment.

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

Mr. Chairman, for anyone who sacked out back in 1995 and pulled kind of a mini Rip Van Winkle and just woke up this week, we are right where they left off when it comes to clean air and clean water, because the same anti-environmental spirit that dominated this Congress back in 1995 is alive and well tonight.

Now, most Americans remember 1995. They remember not the words of Democrats, perhaps, but the words uttered at that very microphone by one of the top three members of the Republican House leadership, who stood there and said of the chief environmental law enforcement agency in this land, his words were "It is the Gestapo of America. It has its claw holds in the backs of Americans."

That is the philosophy of the House Republicans. It has not changed. The attitude is still there. The philosophy

is still there. The effort is still there. But they have become a little more subtle in their tactics, and that is what this Waxman amendment is all about, the subtlety of those tactics.

The American people want clean air. They want their children to have clean water to drink, they do not want it full of mercury or PCBs. They want their children to have a healthy environment. So, unable to come to this floor and legislate directly on these issues, these Republicans come and do it indirectly by legislating on an appropriations bill; and, in some cases, even more subtly, afraid to legislate in the appropriations bill, they just write a command into the committee report.

I have enjoyed the Republican responses to our concerns: "Oh, don't worry. We just wrote it in the report. It doesn't really make any difference." Well, they were not writing it in the report to just fill white pages with black ink. There was a purpose in writing it in the report. These are the folks that write the budgets for the people that enforce our Nation's clean air and clean water laws.

What do my colleagues think those people think when they get a command from the people that write those laws, that also happen to write their budget, that sets their salary, that sets their travel, that sets all the support money that they have to enforce the laws of this land for clean air and clean water? They do not just view it as an idle thought. They view it as a command.

That is why even this more subtle tactic of sticking it in the report is very, very important. When we look through these riders we find the same Republican Party that talks about less government and less red tape, trying to tie up the chief environmental law enforcement agency in this country and prevent it from doing its duty of enforcing the law of the land.

Let us look at the specifics. The requirement that the EPA, though authorized under existing law to reduce the dangerous levels of mercury into the air, they want to force the EPA to study that some more. Mercury has been responsible for killing fish in 50,000 different bodies of water across this land. It can have life-threatening effects, and yet they say that the Environmental Protection Agency cannot make any regulatory determination; that they must study and study some more.

The same thing with reference to the food supply for infants and children. The only study they really want there is to study how to exempt more food providers from those rules.

Let me tell my colleagues about these studies. They are being urged by the same group of people that when they heard from the Surgeon General in 1964 that tobacco causes lung cancer and emphysema, they are the same folks that are still studying it today, and not wanting to do anything about it on the floor of this Congress.

□ 2145

They are going to study it until time eternal rather than taking effective action to do something to protect our clean air and our clean water.

Then the other excuse that was advanced this evening was the suggestion that if we dealt with haze, the kind of haze we hear about down on the Rio Grande River or the kind of haze that sometimes lingers over the Grand Canyon, spoiling that wonderful vista, that if we dealt with haze in the air, that that might be because, and they do not have all the documents they contended, that might be some way that they are actually going to do something about global warming. Heaven forbid.

The very thought that the ostrich would take its head out of the sand, getting hotter all the time, and actually do something about global warming before the glaciers melt and the forests and the farms are burnt up. What a horrible thought that is that they might actually do something.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DOGGETT) has expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. DOGGETT. Mr. Chairman, so eager are they to thwart even the possibility that someone might study this growing danger of global warming, of the greenhouse effect, of the fact that a lot of this planet is warming up, much warmer than this debate I must say, and the threat that that poses to the health and safety of the future of all the people on this world, so eager are they to prevent even a study that they have come in and tried to limit a study of haze that relates to the ability to see the great national wonders in our national parks and forests across this land.

That is the same extreme position that led one of the Republican leaders to talk about our environmental law enforcers and to denigrate them as the gestapo of America.

Then there is the issue of PCBs in our water. It was only a few decades ago that one of our Nation's leaders was said to have commented about the Housatonic. There is no tonic quite like the Housatonic. Well, I do not think he had in mind a river that was full of PCBs. The EPA is talking about trying to do something about it. There is a fear that they might actually go ahead and do something about it.

All this talk about things just being report language, when is it that we are going to see in a report that we want the Environmental Protection Agency to do a more vigorous job of enforcing our laws, cleaning up our water, cleaning up our air, protecting our natural resources so they will be there for our children in future generations?

That is the kind of report language I would like to see in this report instead of tying the hands and crippling the efforts of this agency to do its job. That is what is going to happen when we adopt the Waxman answer and reject this extremist agenda.

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

Mr. Chairman, I rise in opposition to the amendment of the gentleman. This amendment would override several provisions of the VA-HUD report, and I would like to speak to two of them.

First, the amendment of the gentleman would roll back a much needed report on mercury emissions, language that will direct EPA to complete the scientific research it needs to make informed regulatory decisions.

EPA recently settled a mercury-related lawsuit brought by the National Resources Defense Council. In that settlement, it promised to decide by November 15 of this year whether more stringent controls on mercury emissions are needed.

What is the problem with that settlement? The problem is that there are large gaps in our scientific knowledge about mercury. Most scientists agree that a certain amount of mercury is safe to ingest. However, EPA and the other government agencies do not agree, do not have a common understanding about what the levels are.

So it is perfectly reasonable, it seems, to ask EPA to step back and work toward some inner-agency agreement before issuing mercury regulations that, in all likelihood, will be more stringent than necessary and which has real job consequences.

Therefore, this VA-HUD language would simply require EPA to work with federal agencies, like the Food and Drug Administration, the Agency for Toxic Substances and Disease Registry, and the National Academy of Sciences. Together these agencies will, under this language, complete several ongoing studies on mercury transport and safe levels of mercury ingesting, giving EPA the sound science needed to reach common sense, informed regulatory determinations.

Mr. Chairman, secondly, in addition, I would like to comment on the regional haze provision of the amendment offered by the gentleman from California. I am a bit unclear if this portion of his amendment would have the effect which he intends. But recently many States raised concerns about EPA's regional haze implementation schedule.

It appeared as though EPA was going to use its regional haze program to accomplish what it had agreed not to do under the new particulate matter implementation schedule. However, these concerns were addressed in the recently enacted ISTEA reauthorization.

Language in that legislation linked the PM 2.5 implementation schedule to EPA's regional haze program, and the effect is to prevent EPA from taking any action to implement the regional haze program before it implements the 2.5 standard.

Nothing in the VA-HUD report can change that or does. It is for this reason that I do not understand the purpose of this portion of the amendment of the gentleman. The language in the VA-HUD provisions only does one thing, direct money for EPA to establish up to eight regional visibility transport commissions, VTCs.

The organization of these VTCs will fully engage the States and the program, and this fulfills the Clean Air Act provisions that give the States the lead roll in addressing regional haze.

To date most States have not been able to take part in these. Only one has been established. The Grand Canyon VTC was formed in 1990 as a model and a model that, for whatever reason, has not been duplicated. The language in the VA-HUD report would do nothing more than correct this.

For these reasons, with regard to these two provisions of the gentleman's amendment, I urge my colleagues to oppose the Waxman amendment.

Mr. PRICE of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the gentleman from California (Mr. WAXMAN) for the careful work he has done on this amendment and for his effort to ensure that activities authorized by law to protect the environment and the public health are not compromised.

In that spirit, I would like to ask the gentleman to enter into a colloquy to clarify the effect of his amendment on report language regarding the Food Quality Protection Act.

As the more dangerous pesticide uses are eliminated under the Food Quality Protection Act, as they should be, it will become very important for farmers to have new, safer substitutes to continue growing high-quality crops.

Short-term emergency exemptions, such are allowed under current law, will in some cases be necessary where no viable new alternatives are available. The report language directs the EPA to devote sufficient resources to increase the pace of registration decisions and emergency exemptions.

Would your amendment affect the committee's direction in this area?

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

Mr. PRICE of North Carolina. I yield to the gentleman from California.

Mr. WAXMAN. It is not the intention of this amendment to slow down EPA's implementation of the Food Quality Protection Act in any way. Registration of new, safer pesticides and issuance of emergency exemptions are important to agency functions, just as tolerance reassessment is.

My amendment would address the concern that report language accompanying this bill could be construed to reprioritize implementation of the Food Quality Protection Act away from public health protection and undermine the new statutory safety standards established by the FQPA.

Mr. PRICE of North Carolina. Mr. Chairman, reclaiming my time, the report also directs the EPA to issue regulations governing emergency exemption tolerances which were statutorily required by August 3, 1997.

I assume that your amendment would not affect this language.

Mr. WAXMAN. The gentleman from North Carolina is correct. This rule is long overdue and should be issued immediately. Nothing in my amendment would prohibit the EPA from implementing any statutory requirement under the Food Quality Protection Act.

Mr. PRICE of North Carolina. The report instructs the EPA to review and issue emergency exemption tolerances in a manner which minimizes resource demands. Would the intent of your amendment affect this language?

Mr. WAXMAN. No, it would not. Obviously, for emergency exemptions to be effective they must be issued in a timely manner. Nothing in my amendment would undermine that goal.

I am aware that there is disagreement among stakeholders on what EPA's priorities should be in the implementation of this law. It is my hope and expectation that the Tolerance Reassessment Advisory Committee, convened at the request of Vice President Gore, will help to bring consensus to implementation of our pesticide laws.

Mr. PRICE of North Carolina. Finally, I would like to ask, as the report instructs the EPA to ensure the use of reliable data in calculating exposure to pesticide residues and to clearly explain the legal and scientific basis for its policies, would the intent of your amendment affect this directive?

Mr. WAXMAN. The gentleman is correct that EPA should clearly explain how it is reaching its decisions. I am aware that EPA is currently developing guidance to help in this regard, and my amendment would not interfere with this process.

I also agree that EPA should use reliable data when available. However, sometimes reliable data is unavailable and EPA must make reasonable assumptions in order to not ignore legitimate public health concerns. When these assumptions are not dictated by the statute, the agency has greater discretion.

I hope that the EPA's guidance will help clarify issues regarding what information is required and how and when assumptions are used so that all stakeholders can understand how the law will be implemented.

Additionally, I expect the agency will fully consider any data brought to them.

Mr. PRICE of North Carolina. Mr. Chairman, I thank the gentleman for taking the time to clarify the intent of his amendment on these points.

The Food Quality Protection Act is an important tool for improving the safety of our food. We should work to implement it in a timely manner. At the same time, we must make sure that farmers continue to have the tools which allow them to make a living, producing safe, high-quality food.

Mr. WAXMAN. I thank the gentleman from North Carolina and commend him for his leadership on this issue.

There has been recent misinformation on this issue, and I congratulate the gentleman for working towards a consensus approach.

Mr. PRICE of North Carolina. Mr. Chairman, I yield now to the gentlewoman from North Carolina (Mrs. CLAYTON), who also has expressed concerns about these matters.

Mrs. CLAYTON. Mr. Chairman, I want to first thank my colleague from North Carolina in bringing this colloquy to clarify some of the misconceptions about the inability for farmers to proceed in getting the protection they need under the Food Quality Protection Act. I think this means that we can have both an environment that is safe but also for the opportunity for farmers to move forward.

I thank the gentleman from North Carolina (Mr. PRICE) and I thank the gentleman from California (Mr. WAXMAN) for his response and clarifying the record that this is not an anti-farmers provision.

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

Mr. Chairman, I was not sure that I wanted to become engaged in this debate. But I do have some concerns about the Food Quality Protection Act; and since we have been discussing that in a very enlightening way, I thought that I would proceed with the remarks which I had prepared.

I am speaking as a member of the Committee on Agriculture and one who has been involved in working on pesticides for about the last 25 years. I thought that I was finally witnessing some substantive progress with the passage of the Food Quality Protection Act in the 104th Congress. I should have known it was too good to be true.

The committee report language appears to place pesticide decisions into two categories: the "please-go-faster" category includes registering new products and granting emergency exemptions.

I note that reregistration decisions are not included in this category, even though we have been promising the public and the farming community for

over 26 years that all pesticides on the market today would be reviewed to ensure that they meet contemporary health and safety standards. We have yet to keep that promise.

In the "please-go-slow-if-you-go-at-all" category includes the implementation of the science policies and new methodologies required to fulfill the mandate that Congress gave the agencies 2 years ago to take account of the special needs of infants and children. And we have had some serious public furor over that, as some of my colleagues who may remember the Alar controversy with regard to apples will recall; consider cumulative pathways of pesticide exposure; and to address groups of chemicals which have a common mode of action.

All of these, after all, might lead to further restricting pesticide use or to the agency making a decision to cancel the older, riskier products that have been on the market for decades and whose continued presence acts as a disincentive for farmers and consumers to use newer and safer products.

□ 2200

I recognize a period of transition is inevitable with the passage of any new law. The need for a transition should not become an excuse for paralysis in decision-making at the agency. Many decisions the agency needs to make are long overdue and should not be deferred indefinitely while we develop perfect scientific information or a consensus of all interested groups. The days of politically safe and scientifically perfect decisions will never arrive. I can guarantee you that.

The Administration and the Congress promised the public a science-based food safety law that would ensure that safe pesticide products would be used in our homes, workplaces and to grow our food. We said we could accomplish this without hampering our farmers' ability to grow the products we all need and enjoy. The colloquy that we just heard a few minutes ago confirms that. We should not be so afraid of change that we cannot make good on these promises and move ahead to further improve the safety of our food supply and the health of our environment. We should not get caught in the trap that has immobilized progress on this issue for the last quarter century.

I urge Members to vote for the Waxman amendment.

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

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

Mr. LEWIS of California. One of the needs for this report language is that it would appear as though the agency is cherry-picking the way it will interpret the very law that your committee wrote, and it is a comprehensive bill. Remember, Mr. BROWN, that this is the same agency that has a hand in the problems in our own territory like the Delhi ever-loving sand fly and the San Bernardino kangaroo rat. The EPA needs some direction. That is all this report language does.

Mr. BROWN of California. Let me say to my good friend from my neighboring congressional district that I am well aware of the defects in the way the EPA operates. I have no objections to giving them some direction. I do not wish, however, to withdraw the direction that we may have already given them in which they are not fulfilling at the present time.

I think that this is the whole intent of the Waxman amendment. I cannot perceive why it should even be controversial. I do not object to the directions coming from the Committee on Appropriations except modestly when they intrude on the prerogatives of the authorizing committee, but I even overlook that once in a while when I feel that the goal is worthwhile. But I think in this case, we may have gone too far in an effort to prevent the agency from doing the job that we have told it we want them to do.

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

Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from California (Mr. WAXMAN). I had planned today to offer my own amendment to nullify one of the antienvironmental riders attached to the VA-HUD appropriations bill but instead my language will be included in this amendment and I want to thank the gentleman from California for his support and leadership on this matter.

This bill includes detrimental report language that would seriously and unnecessarily delay the EPA's efforts to address the risk of exposure to mercury contamination from utility emissions. Let me be perfectly clear. The effect of the language is to say that EPA can issue no regulations with respect to utility emissions for 3 years. That is the effect of this language. It is significant, and that is why those on the other side are fighting so hard to keep it in.

Mercury is a naturally occurring element that has built up to dangerous levels in the environment due to releases from coal-fired power plants, waste incinerators and other types of manufacturing plants.

After mercury is released into the air, it can travel great distances. It eventually settles in water, and, unlike other pollutants, it accumulates in the aquatic food chain and becomes more, not less, toxic over time in the tissue of fish. There in its most toxic form, methyl mercury, it contaminates humans who eat the fish.

The health risks related to mercury exposure are significant. The most vulnerable to mercury contamination are pregnant and nursing women and young children. Mercury poisoning can result in severe neurological damage to developing fetuses. Older children and adults can see effects such as paralysis, numbness in extremities and kidney disease.

In my home State of Maine, loons hold a special place in our hearts, but U.S. Fish and Wildlife studies have shown that loons in Maine have the highest level of mercury recorded in this country, far higher than in States to the west.

The 1990 Clean Air Act did not address mercury utility emissions but it did require the EPA to report to Congress on the impacts, sources and control strategies for mercury. That long-awaited report, and, I would say, delayed report finally was delivered to Congress this past September. Here it is. This is the executive summary of that EPA report to Congress. The whole report is huge.

Here is another report. The States are acting on their own. The northeastern States together with the maritime provincial governors have gotten together and done a study of mercury. We have studies. We have got plenty of studies on mercury. What we need now is for EPA not to fall behind but to keep up with our State departments of environmental protection.

Now, those reports conclude that there are serious health risks involved with mercury exposure and that contamination is on the rise.

We have heard statements tonight about the big, bad Federal agency, the EPA. Take a look at this chart. Thirty-nine States have water body advisories related to mercury contamination. Thirty-nine States. I ask those on the other side, take a good look at this map. Chances are your State is one of those States that has a mercury water body advisory. This is not the EPA. This is your State Department of Environmental Protection, the biologists. To those that oppose the Waxman amendment, what I say is what are you going to tell your States, what are you going to tell your State biologists, what are you going to tell the mothers and children in your States who are at risk of mercury contamination, and frankly many of them do not know that. Are you going to tell them that, well, we ought to do nothing for 3 years?

I do not think that is an acceptable approach. These reports conclude that coal-fired power plants emit more mercury into the air than any other source. Estimates are that they release 52 tons of mercury every year, one-third of the annual emissions.

Now, what we are asking is for EPA to go to the utilities and gather information about utility emissions. We do not want to stop that. We want that to continue because the public has a right to know. They have got a right to know this information.

Right now EPA is finalizing its information request to utilities. We know

the problem. We know the sources. And accurate monitoring data by the EPA is necessary. We need to know. The report language would require several studies to address what are claimed to be current gaps in the scientific understanding of mercury. But the studies that we are waiting for, that those on the other side want to wait for, are not expected to be completed until 2002.

The CHAIRMAN. The time of the gentleman from Maine (Mr. ALLEN) has expired.

(By unanimous consent, Mr. ALLEN was allowed to proceed for 1 additional minute.)

Mr. ALLEN. Mr. Chairman, waiting for duplicate studies before we act will only achieve further delay in the agency's efforts to address the risk from mercury exposure.

We know there is a link between mercury emissions from power plants and the contamination in our Nation's lakes, rivers and streams. It is in our neighborhoods. It is affecting our children. We do not need additional reports to tell us that. I urge my colleagues to protect the public's right to know and support the Waxman amendment.

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

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

Mr. WAXMAN. I thank the gentleman for yielding. I want to commend the gentleman for his leadership on this issue. I know he had a similar amendment which we have incorporated into our amendment. It is important that we deal with this issue. I was pleased by the assurances from the gentleman from California (Mr. LEWIS) that these report language provisions do not have any binding impact on the agencies. But I fear that when we ask them to do another report after they have already done so much, as the gentleman so eloquently pointed out, that it may be intimidating on them to go forward. I think that is a reason why we need to adopt this amendment.

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

Mr. Chairman, the gentleman from California (Mr. WAXMAN) is right. Report language does state that the EPA not issue any regulatory determination for mercury emissions from utilities until more studies are done.

But studies have already been done. It is a fact that coal-burning utilities emit mercury from their smokestacks. It is a fact that mercury gets deposited in our soil and water. It is a fact that mercury accumulates in fish. It is a fact that mercury works its way up the food chain to people. Coal-fired utilities emit 52 tons of mercury each year nationwide.

Mercury contamination is a serious problem in Ohio. The National Wildlife Federation has determined that coal-burning utilities are responsible for 55 percent of the State's total mercury emissions. These utilities are responsible for more than 9,000 pounds per year of mercury released into the air. The Ohio Department of Health has issued a statewide fishing advisory for every river, lake and stream in Ohio due to mercury contamination in Ohio's waterways. Ohio affects New York, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, and Canada as well with mercury contamination. These emissions are damaging our quality of life, the areas where we live, where we work and where we play.

Yet the committee language will prevent the EPA from acting now. We cannot accept and we do not have to accept the logic that jobs depend on pollution because everyone knows that in the next millennium we can have both jobs and a clean environment and that pollution represents wasted resources.

Mr. Chairman, one of the most disconcerting aspects of the environmental debate is that it demonstrates a kind of thinking that man has disconnected himself from his natural environment. We speak of the air as if it is out there. We speak of water as if it is a wet abstraction. We speak of global warming as if the globe is somewhere other than that upon which we stand, where we live.

Human life depends on the life of the planet. Our children's life depends on the life of the planet. A famous Indian chieftain once said, I think it was Chief Seattle, "The Earth does not belong to us, we belong to the Earth."

The Earth and the environment which contains it are the fundamental preconditions of life. Now, if you believe that life is sacred, and I do, then you believe that it is a seamless web. That if life is sacred, the Earth is sacred. If life is sacred, the air is sacred. If life is sacred, water is sacred. If life is sacred, the globe is sacred and all who live upon it are sacred.

Now, this is not a mere rhetorical or philosophical proposition. This is not about the intricacies of environmental politics. This is a spiritual imperative. Without a place for us to work out our fate, there is no physical life for us to do the work of the spirit. This is a matter of life. The God on which our Nation trusts is the same God whose work is all creation. Creation is the work of God and if we are created in God's image, then we ought to have more respect for God's creation. The mere possibility, the mere hint that greenhouse gases may be changing our global climate, that PCBs are contaminating our waters, that mercury is poisoning people should cause Members of this House to leap to the defense of our common home. It is time to reconcile with the Earth, it is time for us to remember where we came from, and to remember that all life is precious and that life depends on us.

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

Mr. Chairman, I am somewhat taken aback by the distinguished chairman's belittling of the importance or impact of the report language here. I have to think that if he really believed that, that that language was so weak, that he ought to be supporting this amendment and we could have saved a great deal of time this evening and he could have sent a letter or two letters or a series of letters to EPA on this point with at least equal effect.

□ 2215

In fact, he does not believe that. He knows that this is more important language, and that is why we are having this debate.

But I think what we have got, then, is something that I will characterize as ghost riders. The appropriations process that we have before us is haunted by these ghost riders. We passed the bill last night and voted on several of them today, and it attempts to remove several of these ghost riders from that bill and those were unsuccessful.

Here we have a series of these antienvironmental ghost riders on today's bill that threaten the public's health and safety. This is a simple strategy that every American can read. The strategy is to tie the hands of the EPA and prevent them from performing the duties that they were statutorily charged with carrying out. The American people sent us here to serve them. The people who sent us here both expect and deserve more.

Now we have rivers that are not safe to swim in. The fish from those rivers are not safe to eat. The river banks are not safe for children to play along. I think it is clear that we need an Environmental Protection Agency that is armed with all of its tools.

The majority in this House wants to suspend river cleanup and pretend that PCBs and DDT will simply go away on their own. They are not going to go away on their own. Polychlorobiphenyls are among the most stable compounds, chemical compounds that we know. Their solubility in water is extremely low so they get caught up in the sediments.

They are not going to stay under the sediments when the rivers' oxbows move. By the normal action of the river, those sediments turn over, those PCBs or DDT. DDT and PCB are similar really only in the fact that they are both heavily polyalginated, and that is really their only similarity other than the fact that they are both proven carcinogenic compounds.

The kind of normal action of the river continually releases that material into the environment again time after time and keeps the rivers unclean. However, the PCBs, when ingested by human beings or by fish, they go into the fatty tissues; and that is the route by which they become carcinogenic.

Our rivers should be available to the owners of the banks of those rivers, if we have any concern for private ownership, for them to use. They should be available for vacationing families. They should not be closed with ominous "keep out" signs with skulls and crossbones that say "do not eat the fish."

There is an implication here that dredging is not a tried and proven method. It has been used. It has been a steady part in 23 of the 25 Superfund cleanups involving PCBs or DDT, either one of them, in river sediments. It is a remedial dredging procedure that has been used again and again successfully. There is no question about its having been used and it being tried.

The National Academy of Sciences presented a study entitled "Contaminated Sediments in Ports and Waterways, Cleanup Strategies and Technologies." Doing another study when they have already done that in the way they have is basically unnecessary. It is dilatory. It ends up leaving us in a position where we may not be able to reach a conclusion here at all.

My district is the Housatonic River. The Housatonic River, when PCBs run down that river, goes on into Connecticut and affects the districts from several Members of the State of Connecticut.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. OLVER) has expired.

(By unanimous consent, Mr. OLVER was allowed to proceed for 2 additional minutes.)

Mr. OLVER. Mr. Chairman, as I was saying, that river is completely outside the area that is represented by the gentleman from New York, the chairman of the Committee on Rules.

The people in our area and the people in Connecticut and the governmental authorities in both Massachusetts and Connecticut are deeply concerned about making certain that this process is not slowed down, that it goes forward.

All the Environmental Protection Agencies in those States and the law enforcement agencies in those States are agreed upon that. We can argue about the merits of a do-nothing Congress in the case of these ghost riders. I suspect that the American people would be very much served and very happy if we did exactly nothing in relation to such items that have been attached to the report language of the bill. But at least then the Congress would be doing no harm. Surely, to do no harm ought to be the goal for every one of us.

But American people at least in my area surely do want the EPA to do its job. So we should adopt and support the Waxman amendment in order to eliminate these ghost riders from this bill.

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

Mr. Chairman, I rise, obviously, to oppose the amendment and with some concern because I do not wish to discuss the amendment. We have had a lot of time to consider this amendment and several others in this bill. I do wish that we could conclude our debate and bring it to a close, because I think it is a very important bill that should be concluded tonight, and we can go on to other business.

I cannot for the life of me understand why we are dragging out the debate as long as we are. But since we are dragging it out, it has given me an opportunity I do not often get; that is, to read the New York Times. I mean, I come from New Orleans. We have the Times-Picayune. Then when I am in Washington, sometimes I read the Washington Times and even the Washington Post. I venture forth and sometimes I read the Wall Street Journal going all the way up to New York.

I picked up the first copy of the New York Times I have seen in months, perhaps even years. I am sitting over there waiting for this debate to be over with. For the life of me, when is it going to be over? It is no reflection on the author of the amendment. He means well. And all the opponents, they mean well. And good grief, we just keep debating it.

So I am reading this lead editorial. It says "The Firestorm Cometh," Mr. Chairman. I would like to take an opportunity to read it.

Charles Labella, who has been leading the Justice Department's campaign finance investigation, has now advised Attorney General Janet Reno that under both the mandatory and discretionary provisions of the Independent Counsel Act she must appoint an outside prosecutor to take over his inquiry. The other important figure in this investigation, Federal Bureau of Investigation Director Louis Freeh, has already recommended an independent counsel. Ms. Reno can give her usual runaround about being hard-headed, but she cannot hide from the meaning of this development.

The two people in the American Government who know most about this case, the lead prosecutor and the top investigator, are convinced that the trail of potentially illegal money leads so clearly toward the White House that Ms. Reno cannot, under Federal law, be allowed to supervise the investigation of her own boss. When it comes to campaign law, this is the most serious moment since Watergate.

These are not the judgments of rebel subordinates or hot-headed junior staff members. Freeh, a former Federal judge, has been, if anything, too loyal to Ms. Reno during the nine long months that she has ignored his advice. Labella was hand-picked by Ms. Reno on the basis of his experience and skill to run this investigation. Either she has to come forward and make the impossible argument that they are incompetent or bow to the law's requirements.

I got to this last paragraph, and I had to stop. I said, is this the New York Times? Certainly it is the Washington Times or maybe the Times-Picayune. But I checked the headline. No, it is the New York Times, right out of New York City. It is the lead editorial.

This is the last paragraph. It says,

Ms. Reno may grumble about leaks of supposedly confidential advice, but the fact is that the American people need to know that the two top law enforcement officers believe the Attorney General is derelict.

The New York Times.

Moreover, Freeh and Labella are right to separate themselves from Ms. Reno, because if her attempt to protect Presidential fundraising from investigation continues, it will go down as a black mark against Justice every bit as historic as J. Edgar Hoover's privacy abuses. "Firestorm" is an overused word in Congress, but if Ms. Reno does not make the appointment, the Republican Senate leadership ought to ignite one, today.

I think the gentleman's amendment ought to be rejected, but this is something to consider.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words, and I will not use the 5 minutes.

Mr. Chairman, I thought I had to be in the Senate to listen to an old-fashioned filibuster, but at least the gentleman from Louisiana gave me the opportunity to witness one for the first time. So I appreciate that.

Let me just say that I hope that the Republican leadership understands from this debate tonight that Democrats will not stand by and let the Republican assault on the environment through these various riders continue.

I was very happy to see so much debate on the issue of the riders, because I think it shows that we, as Democrats, intend to draw the line on these various appropriations bills, and that is why we support the Waxman amendment tonight.

I am just going to mention two brief things. First, with regard to the provision prohibiting the EPA from taking any action to remove contaminated sediments from rivers, lakes, and streams, I just wanted to point out that there are numerous sites in the United States that are on the national priority list of Superfunds and that might be listed on the Superfund site list in the future that could require the removal of contaminated sediments.

Since 1984, the EPA has included the remedial dredging of 23 of 25 Superfund decisions at sites with PCB-contaminated sediments. To prohibit or delay the EPA's ability to use dredging at these sites is to greatly increase the risks for America's citizens or serious health impacts and even greater environmental degradation than has already occurred from these sites.

So we have to pass this Waxman amendment, otherwise we are going to have even more problems with our Superfund sites.

Secondly, with regard to a rider that would delay an already prolonged process from reducing mercury emissions from electric utilities, just last Thursday, I spoke at a press conference to launch the release of a report that addresses mercury emissions from utilities.

My colleagues have talked about this because of the concern that this type of pollution from utilities causes to the environment, and I just wanted to say that, as States and eventually the Federal government move towards a more competitive electricity utility market, addressing mercury and these kind of emissions in a uniform and equitable and prompt matter is going to become increasingly important.

We simply have to recognize that this rider will make it only more difficult to address mercury pollution in the context of electricity deregulation.

So I just want to say, Mr. Chairman, I urge my colleagues to support this critical Waxman amendment, to protect the environment and America's taxpayers. This really is a serious issue. Although some on the other side think that we can just as easily read the telephone book, the fact of the matter is that this is important for us. I am very proud to see that so many of us on the Democratic side stood up tonight and pointed out that this continued assault on the environment will not continue to take place in this House as long as we are around here and able to express ourselves.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong support of the amendment offered by Mr. WAXMAN of California. This amendment would eliminate controversial, anti-environmental riders attached to the bill at the last minute. This amendment would override language which interferes with agency actions to protect the environment and public health authorized by existing statutory authority. Specifically, the amendment would override provisions in this bill which would significantly delay efforts to clean the PCB contaminated Housatonic River in my home state of Connecticut. The Connecticut Department of Environmental Protection has contacted me in opposition of these provisions and the Environmental Protection Agency has indicated that these provisions pose a serious threat to their ability to take actions necessary to control immediate threats to public health.

PCB contamination poses threats to the health of individuals who come in contact with PCB contaminated soils, sediments, and wildlife. Exposure to PCB is carcinogenic, and poses health risks to intellectual functions, the nervous system, the immune system, and the reproductive system. The amendment would also correct language which would delay the cleanup of sites contaminated with mercury, exposure to which can cause serious neurological damage.

We must act immediately to clean up these contaminated sites and reduce the possibility of exposure to these dangerous chemicals. This amendment is supported by the National Environmental Trust, the National Resources Defense Council, the Public Interest Research Group and the Sierra Club, and several other environmental groups. I urge my colleagues to support this important amendment and protect our children from exposure to environmental hazards.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 243, not voting 16, as follows:

[Roll No. 334]

AYES—176

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Edwards
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Forbes
Fox
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Green
Greenwood
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Porter
Poshard
Price (NC)
Ramstad
Rangel
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schumer
Scott
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Woolsey
Wynn

NOES—243

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Biliraki
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Wilson
Wise
Wolf

NOT VOTING—16

Brady (PA)
Conyers
Ford
Gonzalez
Hall (OH)
Lewis (GA)
Markey
Moakley
Serrano
Shuster
Smith (OR)
Stark
Whitfield
Yates
Young (AK)
Young (FL)

□ 2248

Messrs. WISE, REDMOND and REYES changed their vote from "aye" to "no."

Mr. SHERMAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Chairman, I was at the White House and missed three rollcall votes.

On rollcall vote No. 330, I was unavoidably detained. Had I been present, I would have voted "no."

On rollcall vote No. 333, I was unavoidably detained. Had I been present, I would have voted "present."

On rollcall vote No. 334, I was unavoidable detained. Had I been present, I would have voted "aye."

The CHAIRMAN. Are there further amendments to this section of the bill?

Mr. DAVIS of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to bring to the attention of the distinguished gentleman from California (Chairman LEWIS) a problem with the Environmental Protection Agency. Since early this year, I have been working with the EPA on a support contract for the Superfund reportable quantities on oil spill programs.

These discussions focus primarily on the issue of bundling non-Remedial Action Contractor (RAC) restricted work with a RAC-restricted work in a single competitive procurement and limiting competition to non-RAC firms only.

Mr. Chairman, as the gentleman from California knows, a constituent company of mine located in Fairfax has been performing a scope of work for EPA that is deemed highly necessary in this program. The contracting vehicle is due to expire. Rather than conducting a new competition, EPA has arbitrarily and without justification decided to include this work under a restricted contracting vehicle, for which my constituent and every other RAC-restricted contractor would be precluded from competing as a Remedial Action Contractor. This violates Federal competition in contracting rules and is clearly unfair.

Mr. Chairman, I have attempted to resolve this matter by working with EPA, but in a letter to my office dated June 16, 1998, EPA reasserted its position to exclude RAC contractors from competing for bundled Superfund work.

I rise today to seek the assurance of the gentleman from California that if EPA does not move expeditiously to resolve this important matter prior to conference, that he will work with me in the context to reach a resolution.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Virginia (Mr. DAVIS). In May, I joined the gentleman in sending a letter to EPA attempting to resolve this important issue. I am disappointed in the response we have received and hope that the gentleman from California (Chairman LEWIS) will work with us in conference, should congressional action be necessary.

Mr. DAVIS of Virginia. Mr. Chairman, reclaiming my time, I thank the gentleman from Virginia (Mr. MORAN), my friend, and would ask if the gentleman from California (Chairman LEWIS) can help us in this endeavor.

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

Mr. DAVIS of Virginia. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman from Virginia (Mr. DAVIS) and would like to offer my assurance that should EPA not work to resolve this issue prior to conference, that I will work with the gentleman on language addressing this issue at that time.

Mr. EWING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of engaging the gentleman from California (Mr. LEWIS), chairman of the Subcommittee on VA, HUD, and Independent Agencies Appropriations, in a colloquy.

Mr. Chairman, in 1995, in a bipartisan effort, the Edible Oil Regulatory Reform Act, Public Law 104–55, was signed into law. This law required the Federal Government to differentiate between edible oils and other oils, such as petroleum, when issuing or enforcing any regulation relating to the transportation, discharge, emission or disposal of oils under Federal law.

Unfortunately, the EPA has yet to provide for differentiation treatment of these oils, despite common sense industry proposals for bringing the agency's rules into compliance with the Edible Oil Regulatory Reform Act.

The animal fats and vegetable oil industry has been working with the Congress and the Federal Government on this issue for more than 6 years. The Congress expressed its will when it passed the legislation in the 104th Congress.

It is time to bring this issue to conclusion and stop the bureaucratic red tape. The Senate has included an amendment to the EPA appropriations that requires the EPA to promulgate a rule by March 31, 1999, that will bring this issue to closure and provide for a regulation that is in compliance with the law that this body passed by unanimous consent in 1995.

The House Committee on Appropriations has included report language also calling for closure to this issue by March 31, 1999.

I would urge the Members to include the Senate language in the final version of this legislation as it makes its way out of conference. I hope the Members would agree that the EPA should move forward with common sense and balanced regulations on these nontoxic edible animal fats and vegetable oils.

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

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

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the gentleman from Illinois, for bringing this matter to our attention. I certainly agree that the EPA should move forward in this matter and we will work closely with our Senate counterparts in conference to see that the Agency does so.

Mr. NEUMANN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage our distinguished chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations, in a colloquy.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I would be happy to join in a colloquy with the gentleman from Wisconsin.

Mr. NEUMANN. Mr. Chairman, as you know, I am a former home builder and very familiar with the role of home mortgages in the country. We have about 23,000 mortgage brokers that originate half of all home mortgages throughout the country. These are small businessmen and women who provide a convenient and valuable service to both wholesale lenders and home buyers.

Sometime the lender pays the mortgage broker for their services which allows lower upfront costs to the home buyer. These payments are known as lender paid mortgage broker fees or yield spread premiums.

Confusion has arisen over the legality of lender paid broker fees. Nearly everybody agrees that Federal law does not make lender paid mortgage broker fees automatically illegal. Yet, HUD has difficulty in fully clarifying this point.

Although the bill does not help HUD clarify this issue, I know the gentleman shares my concern and I appreciate his efforts during the committee markup.

Is it the Chairman's intention to address the lender paid mortgage broker fees in the conference committee?

Mr. LEWIS of California. Mr. Chairman, first, let me say to my colleague, who is a member of the subcommittee, that I absolutely do intend to continue working with the gentleman. The gentleman's effort to make sure that we are on target in connection with this issue has been very, very helpful. We want to provide clarity on the legality of lender paid mortgage broker fees and will do so in the conference report. Between now and then, I know the gentleman will make sure that I pay attention.

Mr. NEUMANN. Mr. Chairman, I appreciate your assistance.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to enter into a colloquy with my good friend, the gentleman from California (Mr. LEWIS), the chairman of the Subcommittee on VA, HUD and Independent Agencies, to discuss a matter of concern that impacts my district, the 17th District of New York, and is also a matter of national concern.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I would be pleased to enter into a colloquy with the gentleman from New York.

□ 2300

My sense-of-the-Congress amendment supports expanding the ability of States and localities to recommend alternative methods to filtration for meeting EPA water standards, by applying to the Federal Government the filtration avoidance based on information, technology, or evidence not available prior to an EPA determination that the State or locality had to adopt filtration. Under my proposal, if the EPA determines that the States or localities' alternatives do not comply with Federal standards, the EPA can still reject the State alternatives.

I do not believe my amendment is controversial, and I have received support from the gentleman from Texas (Mr. BARTON) and a number of Members from both sides of the aisle who have gone on record in their willingness to work with me in a bipartisan manner on this important issue.

I hope that I can work with the gentleman from California (Mr. LEWIS), the gentleman from Virginia (Mr. BLILEY), and the EPA as we go to conference and over the next year to resolve this very important issue.

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

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

Mr. LEWIS of California. Mr. Chairman, I would like to thank the gentleman from New York for his work on this important issue. The committee encourages EPA, States, and localities to work together in finding better solutions to protect our environment.

I would encourage EPA to work together with the gentleman and the Committee on Commerce over the next year in resolving the problems facing the gentleman's district and the Nation. Presently, the Committee on Commerce is considering the proposal, and I will work with that committee and the gentleman from New York as we move toward conference and over the next year.

Mr. ENGEL. Mr. Chairman, I thank the chairman for his encouraging words and look forward to working with him and the gentleman from Virginia and the EPA over the next year to find a way to afford my community and others even greater flexibility in their efforts to offer Americans the cleanest water possible.

Mr. Chairman, with the gentleman from California's reassurances at this time, I will not offer my amendment.

Mr. BALDACCI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank the gentleman from California (Mr. LEWIS), the chairman, and the gentleman from Ohio (Mr. STOKES), the ranking member, for engaging in this colloquy with me and with the gentleman from Maine (Mr. ALLEN). I appreciate their work on this very important legislation.

We rise to discuss the Veterans Equitable Resource Allocation, or VERA system. My colleague from Maine and I have been confronting a very difficult situation in our State of Maine, which is part of Veterans Integrated Service Network, or VISN, 1. Under the VERA system, VISN 1 has lost funding in the past, and is expected to lose additional funding this year. We are concerned about the level of care that our veterans are receiving.

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

Mr. BALDACCI. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the Togus, Maine VA Medical Center has been recognized in the past as a center of excellence. Now, however, the Maine delegation is hearing continual complaints from Veterans that they are having to wait longer for appointments; that they are being asked to travel out of Maine to receive services; and that their doctors do not have time enough to spend with them. I am concerned that VISN 1 is not receiving adequate resources under the VERA system to serve Maine's Veterans.

Mr. BALDACCI. Mr. Chairman, this is not a new concern. Last year the House VA–HUD conference report requested a GAO study of how the VERA system affects the VISNs. We had expected this report to be concluded by this point so we could have the information before voting on another appropriations bill. It is now my understanding that the report has been significantly delayed and is not yet available.

I would ask the chairman and ranking member when are we expecting the GAO report to be issued?

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

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

Mr. LEWIS of California. Mr. Chairman, it is our understanding that the GAO intends to issue its report by September 1 of this year.

Mr. ALLEN. Mr. Chairman, if the gentleman will continue to yield, my colleague and I expect that the information to be concluded in the GAO report may assist the subcommittee and all Members in examining the reallocations that are underway. It would have been our wish, and I suspect the wish of the chairman and the ranking member, to have this information in hand before considering this legislation. At a minimum, we hope that it will be given careful consideration during conference.

Mr. BALDACCI. Mr. Chairman, to ensure that this year's appropriation bill provides adequate resources to every VISN to provide every veteran with the quality health care to which he or she is entitled, I would ask the chairman and ranking member to assure the body that as this legislation goes to conference that they will do all they can to ensure the recommendations of the GAO are taken into consideration.

Mr. LEWIS of California. Speaking for myself, I tell the gentlemen from Maine that we will carefully examine the GAO report and will take the GAO's recommendations in due consideration as we go through the conference.

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

Mr. BALDACCI. I yield to the gentleman from Ohio.

Mr. STOKES. Also speaking for myself, I similarly assure the gentlemen from Maine that I will carefully examine the VERA allocations and the GAO's recommendations. Providing quality health care to all of our Nation's veterans must be our highest priority.

Mr. BALDACCI. Mr. Chairman, I thank the chairman and the ranking member for their commitment to the veterans of this country.

Ms. HOOLEY of Oregon. Mr. Chairman, I move to strike the last word.

I rise to engage the distinguished chair from California in a colloquy. I want to highlight the merits of an innovative approach to water-management related plant research and wastewater system management that has been initiated by a terrific project called the Oregon Garden Project in Silverton, Oregon. It has national implications and is a national model.

By publicly showcasing how wetland functions as a natural water filtration system, and demonstrating unique water conservation techniques within a world class garden, the project provides an outstanding public education opportunity.

The garden, a $16 million construction project, is being funded by $8 million in private dollars and contributions from a partnership of State, Federal and local government. In fiscal year 1999, I am requesting a final $1 million to be provided within the EPA account for completion of construction, complementing the $2 million already federally invested.

The Oregon Garden holds a great deal of promise for teaching the public and developers about the critical role wetlands play in habitat and ecosystem management. While developed wetlands will never be able to replace preservation of existing wetlands, the reality is that wetlands must be restored and created. Developers must know how they function to accommodate runoff from community growth. The Oregon Garden will also serve as an educational site for horticulture, wetland management, and wastewater processing.

The nursery industry in the State of Oregon is the fastest growing industry in our State. It holds great potential

for job development. We feel like the more than $9 million that have already been invested in this project makes us an excellent partner.

I recognize the chairman cannot grant every request, but I wonder if the chairman would work with the other body in the conference and try to find funding for the Oregon Garden.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Ms. HOOLEY of Oregon. I yield to the gentleman from California.

Mr. LEWIS of California. The gentlewoman probably does not know this, but my first grandchild, being born some years ago, the kids named her Katelyn Rose, and since that time I have been in the gardening business. So I want the gentlewoman to know that not only do I appreciate her making this effort, we will try to do everything we can to move the item along and we will be glad to be cooperative with her.

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the gentleman very much.

Mr. HORN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank my colleague from California [Mr. LEWIS], the chairman of the VA–HUD appropriations subcommittee, for the time and hard work which he and the gentleman from Ohio (Mr. STOKES) have rendered in bringing this legislation before the House. I want to raise an issue related to a component of the bill before us today, the Federal Emergency Management Agency [FEMA].

On July 6, residents of my district and five adjacent districts in Los Angeles County came under a mandate to purchase flood insurance through the National Flood Insurance Program administered by FEMA, the Federal Emergency Management Agency. This has caused a spirited debate within the region as to the necessity for this insurance and the accuracy of the maps of the Los Angeles County Drainage Area, which includes the Los Angeles River, the Rio Hondo River, and the San Gabriel River. Those maps simply are not accurate, and yet one has to purchase insurance based on those maps.

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

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

Mr. LEWIS of California. Is it not correct that the city of Lakewood, California, paid for a new survey and found that almost 5,000 homes and businesses were mistakenly included in the floodplain and, thus, would have been required to purchase insurance when it was, in fact, not required?

Mr. HORN. That is true, and 5,000 structure were exempted.

Lakewood did this at no small cost based on its limited budget. The city undertook the survey to ensure that the revised insurance rate maps were as accurate as possible. And as I say, there were many inaccuracies.

It strikes me as unfair that the Federal Government has placed this insurance mandate upon 500,000 constituents from six congressional districts. But FEMA has not made the proper flood plain insurance maps as accurate as possible.

□ 2310

James Lee Witt, the director of FEMA, has been very helpful over the years and I commend him for his willingness to work with us on the many issues related to this new mandate.

However, Mr. Chairman, I feel that before the Government acts, it should make a good-faith effort to use the best information that is available, particularly when good citizens—and many of these citizens are in a lower-economic category—must pay out of their pockets for any mistakes the Government might make.

For this reason, I would like to ask the distinguished chairman if funding could be made available to ensure that new maps would be prepared more accurately and reflect the true areas which might be impacted by the 100-year flood event.

I would hope that the flood insurance now being imposed would also have a moratorium placed on it until the maps of the flood plain prove to be accurate.

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

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

Mr. LEWIS of California. Mr. Chairman, my colleague is raising a very, very important point; and this issue is one that has been around for a while and yet it needs some serious oversight and review. It is a problem that I would like to continue to explore with my colleagues, especially the gentleman from California (Mr. HORN) and I appreciate his bringing this to our attention further.

Mr. HORN. Reclaiming my time, I would hope that something could happen in conference or in another way.

Mr. LEWIS of California. If I know the gentleman from California (Mr. HORN), he will see that we try.

Mr. STEARNS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak about my amendment and engage in a colloquy with the gentleman from California (Mr. LEWIS).

As the gentleman is undoubtedly aware, the American Heritage Rivers Initiative was established by an executive order and has not gone through the entire committee process. It has not received any Congressional authorization. It has not received any appropriation, and it has not received sufficient oversight by the committee of jurisdiction.

A number of Members, including myself, are very concerned about this American Heritage Rivers Initiative program primarily because it has not been authorized by Congress. So I rise today to ensure that the Congressional intent is not to be misconstrued by the Council on Environmental Quality, or CEQ.

The CEQ should not rely on the Committee on Appropriations VA-HUD Appropriations report language to fund the American Heritage Rivers Initiative, and I am just asking the chairman, the gentleman from California (Mr. LEWIS), if that is his understanding.

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

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

Mr. LEWIS of California. Mr. Chairman, I am very well aware of your concerns; and if you recall, I shared them with the administration on several instances during the past year. It is not my intent that the report language be a base for funding.

Mr. STEARNS. Reclaiming my time, I appreciate the concern of the chairman because, as it points out, the committee states that the Council on Environmental Quality should "strike a balance when allocating resources so as to adequately fund Congressional priorities as well as the administration's priorities such as the American Heritage Rivers Initiative."

So primarily I was concerned that CEQ would construe that statement through the House committee report that it spoke for the entire House. So I appreciate the statement of the chairman on this.

Mr. Chairman, do you acknowledge this as a program that has really not been approved by Congress?

Mr. LEWIS of California. I do not only acknowledge but state flatly that this is an unauthorized program, and I want my colleague to know that I intend to make certain when we go to conference that both the House and Senate are very clear on this matter.

Mr. STEARNS. Mr. Chairman, reclaiming my time, I appreciate the concern of the gentleman and I appreciate what he just spoke, the endorsement.

The language as is written could be construed, but I think my colleague has made it clear tonight, that if a program is not authorized by Congress, and this report language does not do that.

As the chairman is aware, the federal involvement in local land issues has been a rocky history lately.

At this point I include for the RECORD, Mr. Chairman, the following body of my remarks, which gives this rocky history without belaboring it here on the House floor:

By way of background, on April 13, 1998, a US District Court Judge ruled that the National Park Service had the authority to block the construction of a proposed St. Croix River

Bridge connecting Stillwater, Minnesota, with Houlton, Wisconsin. Minnesota and Wisconsin spent $14 million on bridge design and purchase of required right-of-way. This construction block was allowed despite Department of Transportation approval of the project. Why was the project halted? Because the St. Croix River is designated as a Wild and Scenic River, under the Wild and Scenic Rivers Act of 1968. This Act was the basis for the National Park Service's Authority.

The decision turned on the interpretation of the project as a "water resource project" by the National Park Service. This gave the National Park Service authority over the project, even though apparent Congressional intent was to prevent any bridge over a designated river to be considered a "water resource project" under the Wild and Scenic Rivers Act.

In the case of the American Heritage Rivers Initiative, as Congress was not involved in the creation of the program, courts would have no Congressional history as guidance should disputes arise.

If the Wild and Scenic Rivers Program is any indication, we have reason to be concerned about increased federal involvement in our local affairs. It is still unclear exactly what American Heritage Rivers designation means.

Already, we are seeing that the policy on this Initiative is far from clear. I wrote to the CEQ over a month ago to request clarification on what a kind of an exemption a Congressman whose District was opted out could expect to receive. I still have received no response from the CEQ.

Does the Chairman agree that the CEQ should not use VA/HUD appropriation funds to operate the American Heritage Rivers Initiative without Congressional approval?

Mr. LEWIS. Yes, I do. I will work with concerned members of this body to make sure that we prevent the CEQ from operating the American Heritage Rivers initiative with public money without Congressional approval.

Mr. STEARNS. Given Mr. LEWIS' agreement to resolve this situation, I would like to withdraw my amendment to prevent the CEQ from using VA–HUD Appropriation funds to administer the American Heritage Rivers Initiative. I look forward to working with the Chairman and ensuring that the CEQ does not use federal funds to operate the American Heritage Rivers Initiative without Congressional approval.

I would like to thank the gentleman for his continued leadership on this issue.

Mr. Chairman, let me conclude by saying, does the chairman agree that the CEQ should not use VA–HUD appropriation funds to operate the American Heritage Rivers Initiative without Congressional approval?

Mr. LEWIS of California. That is the strong position of the chairman.

Mr. STEARNS. Mr. Chairman, I appreciate the comments of the gentleman from California (Mr. LEWIS) here and I look forward to working with him in ensuring that the CEQ does not use federal funds to operate the American Heritage Rivers Initiative without Congressional approval, and I thank the gentleman for his continued leadership.

Mr. LEWIS of California. I appreciate very much the colloquy and agree with the gentleman.

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

Mr. Chairman, I am glad that the gentleman from Florida (Mr. STEARNS) did not offer this amendment. Let me say that the American Heritage Rivers Initiative has garnished more support in northeast and central Florida than any other issue in recent history.

Why? Because this involves one of our Nation's most important resources, the St. Johns River. This initiative was announced by President Clinton in his 1997 State of the Union address. But it was pursued by local and State leaders. This is the only way a river can be a part of this program, through local efforts. So this initiative is a perfect example of the partnership that we should support, not eliminate.

In Florida, we value our natural resources. The local elected officials throughout the Third Congressional District, both Republicans and Democrats, put all of their efforts into getting the American Heritage Rivers designated for the St. Johns.

Our river has been recommended for the list of 10, and I stand here to let my colleagues know that the Stearns amendment or the comments of the gentleman from Florida (Mr. STEARNS) do not reflect the sentiments of Florida.

I am glad that he did not offer the amendment, and I urge all my colleagues to support the environment and support restoring our Nation's rivers, which we all treasure in our community.

Mr. VENTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to point out that I have two amendments, amendments No. 10 and 11, both of which would have restored nearly $30 million to successfully yet consistently underfunded FEMA emergency food and shelter program with an offset for various other accounts.

This emergency food and shelter program is a unique program that partners the Federal Government with some of the largest national charity organizations down to the local level. These charities work in partnership with FEMA. They do great work, Mr. Chairman. Second Harvest reported 8 million children, 3.5 million seniors were served in 1997.

I would point out that this amendment and initiative was supported by various groups, including the American Red Cross, Catholic Charities, the United Way, Council of Jewish Federations, and many others. I have been supported by many Members on this, not the least of which is my colleague and friend the gentleman from New York (Mr. WALSH), who I yield to at this point to make a statement and to enter into a colloquy with the gentleman from California (Mr. LEWIS).

□ 2320

Mr. WALSH. I thank the gentleman for yielding. I would otherwise have risen in strong support of the gentleman's amendment. But what we have decided is we will have a colloquy to discuss this. If the gentleman from California would join us, I would like to ask a question.

Mr. Chairman, as the gentleman from California is aware, the Emergency Food and Shelter Program is a model program that acts as a vast safety net for homeless and hungry individuals nationwide. I know that the gentleman has been supportive of this program and has indicated a willingness to see what can be done to provide additional resources for this program.

Would the gentleman agree that the Emergency Food and Shelter Program is an effective, well-run program and that it has become increasingly difficult to accommodate all the requests from charitable organizations for emergency food assistance?

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

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

Mr. LEWIS of California. I concur with the gentleman from New York that the Emergency Food and Shelter Program is a well-administered, effective program. The program is a model of public-private partnership with local boards distributing funds quickly and efficiently to the neediest areas of the country with minimal but accountable reporting. I also recognize that there are growing requests for emergency assistance from charitable organizations that have made it increasingly difficult to meet all the requests for food assistance.

Mr. WALSH. Mr. Chairman, in the event that additional resources become available when the House conference with the Senate begins on this bill, will the gentleman work with us to see if some additional funds may be made available for this effective, vitally needed program?

Mr. LEWIS of California. I appreciate the gentleman's continued interest in this program. Let me assure the gentleman from New York and the gentleman from Minnesota and others with an interest in supporting the Emergency Food and Shelter Program that to the degree that additional resources become available when we go to conference on this bill, I will continue to work together with these gentlemen to see if additional resources can be found for this important program.

Mr. WALSH. I thank the gentleman.

Mr. VENTO. Mr. Chairman, I, under the circumstances, will not offer the amendment. I would just point out that these are effective programs that very often the benefits go directly to people. There has been very little in increase that has been provided for these programs over the last 4 or 5 years. I think that they are due an increase especially because the local groups that

are in fact operating these programs are operating on overload and much need help. I appreciate the gentleman's willingness to work with us and therefore will not be offering the amendments and will withdraw them.

The Emergency Food and Shelter program is a unique program that partners the Federal Government and some of the largest national charity organizations down to the local level. The charities that work in partnership with the FEMA program are continually on overload. Demand for food and shelter is rising and the funding level of EFS has not kept pace with the need. Second Harvest has reported to us that 8 million children, 3.5 million senior citizens, and millions of the working poor people sought emergency food assistance in 1997. The U.S. Conference of Mayors has reported that 86 percent of cities cite an increase in food demand and that some 19 percent of the requests for food have gone unmet.

Given this additional funding, the Emergency Food and Shelter program through its partners, can help these citizens in need. The EFS program has had an outstanding record of fast allocation of funds to the neediest areas in our country. The Emergency Food and Shelter Program provides just that, food and shelter or emergency housing assistance, to hundreds of thousands of families, with 97 percent of the funds going directly for food and shelter services.

The offset for this bill is coming from a program that has received a $268 million increase over FY 1998 funding, while the EFS program has not received an increase of even $1 million since 1990 and in fact, it was cut by $30 million in FY 1995.

The effort to increase funds for this program is supported by a solid group of organizations deeply concerned about the increased demand for emergency food and shelter. Groups like the American Red Cross, Catholic Charities, the United Way, Council of Jewish Federations, Food Research and Action Center, the National Council of Churches, Bread for the World, National Alliance to End Homelessness, National Law Center on Homelessness and Poverty, National Low Income Housing Coalition, Second Harvest, and many others. This effort is deserving of other members support as well.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word. I move to do this in order to recognize the statesmanship of the gentleman from California (Mr. ROHRABACHER) who has put his 5-minute speech in the RECORD. I will put my 10-minute speech in the RECORD, also.

Mr. Chairman, a mere 10 minutes is not enough to praise the gentleman from California (Mr. LEWIS) and the gentleman from Ohio (Mr. STOKES) for the way in which they have conducted themselves.

I do want to take a minute for a very brief colloquy with the gentleman from California with regard to FEMA if he is willing to do so.

I want to commend the gentleman from California (Mr. LEWIS) for directing the Federal Emergency Management Agency in last year's bill to submit a report assessing the need for additional Federal disaster response training capabilities.

It is my understanding that FEMA acknowledged the need for an expanded program to meet the increased demand for training of emergency personnel. Therefore, I would like to inquire as to the gentleman's intent regarding the development of an additional FEMA training facility. Is it the gentleman's intention to encourage FEMA to take a more thorough look at this option?

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

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

Mr. LEWIS of California. First let me say I very much appreciate my colleague from California raising this question. I very much appreciate not only his interest but our mutual interest in this subject, the item having to do this with this colloquy about having FEMA establish an additional disaster procedures training center in or near the territory that we represent. It is absolutely my intention to see that this project is given additional consideration and to work closely with the gentleman toward that end.

Mr. BROWN of California. I thank the gentleman for his response.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word to enter into a colloquy with both the gentleman from California (Mr. LEWIS) and the gentleman from Ohio (Mr. STOKES).

Mr. Chairman, I would like to thank the gentleman from California and the gentleman from Ohio for engaging me in this very important colloquy. The State of Texas, along with my district in Houston, faces a grave heat crisis. This current disaster has resulted in hundreds of dead cattle, wasted crops and diminished water sources throughout Texas. Worse yet, there are reports of people dying in Houston as a result of the torrid heat. Sadly, it appears that our elderly are the greatest at risk. Over 2.5 million Texans are at least 60 years old, 14 percent of the overall population. Additionally, my district includes many low-income Houstonians living in homes without air conditioning. According to reports from FEMA after convening many Federal agencies including the National Weather Service, this crisis will persist into the winter.

Mr. Chairman, I urge us to examine how FEMA can address and provide relief for this crisis across the Nation. I believe that the Federal Government should work concurrently with Houston and the Texas State government to rectify the situation.

I would like to clarify several points. One, the State of Texas experiencing this heat crisis, which is an act of nature, can receive help from the Federal Emergency Management Agency. Number two, FEMA could act to assist by the request of local officials through their State government. FEMA is not precluded from using the proper appropriated funds for the easing of this heat crisis in Texas and other States. And FEMA will not be precluded from consulting with local officials in helping to develop a format for outreach teams to visit Houston neighborhoods and determine the extent of the crisis and need.

FEMA may find solutions in funding to provide cooling equipment, alternative sources of water, educational forums for citizens to learn how to counter the harmful effects of the heat and other forms of relief. Today the President has astutely recognized our current plight and has provided $100 million in relief to the 11 States plagued most by the unrelenting heat which includes Texas. FEMA's expertise in fighting the devastating effects of a national disaster will be an important component to the President's newly announced assistance.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from California.

Mr. LEWIS of California. I would like to thank the gentlewoman from Texas for bringing this very important matter to the VA-HUD appropriation subcommittee's attention. I agree that the present heat crisis threatens both the lives and livelihoods of a great many of our citizens. FEMA has pledged to reduce loss of life and property and has promised to protect our Nation's critical infrastructure from all types of hazards. We will do everything within our power to work with you until a viable solution is available for everyone. I want the gentlewoman to know that it is my intention to work very closely with her and with FEMA on this matter.

Mr. STOKES. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Ohio.

Mr. STOKES. I thank the distinguished gentlewoman from Texas for yielding to me. I would say to her that I must concur with the chairman. I too thank her for bringing this serious item to our attention. FEMA is a Federal agency with more than 2,600 full-time employees. FEMA often works in partnership with other organizations, including State and local emergency management agencies. We would encourage FEMA to work with Houston and Texas authorities to bring a quick end to the current problem in hoping to bring relief to this current devastating heat.

Ms. JACKSON-LEE of Texas. I thank both the gentleman from California and the gentleman from Ohio. I thank them for their concern and their willingness to help. I bring this serious matter to the attention of the VA-HUD appropriations subcommittee and the

whole House because we must be concerned about how we will protect our citizens from this deadly and unusual heat. Texas, especially its elderly citizens, deserves our help. I urge Congress to endeavor to resolve this severe situation with FEMA's assistance. I thank them very much for their cooperation.

□ 2330

Mr. HINCHEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just a few moments ago, several of our colleagues engaged in a colloquy with regard to the subject of the Veterans Administration and the implementation of the Veterans Equitable Resource Allocation System.

From the course of that colloquy, they drew the attention of the House to the impact of the implementation of this system on the funding for the veterans services, particularly veterans health care services in the State of Maine and elsewhere in New England.

I intend at the appropriate time of the consideration of H.R. 4194 to offer an amendment which would prescribe that none of the funds available in the act may be used by the Department of Veterans Affairs to implement or administer the Veterans Equitable Resource Allocation System.

The reason that I will do that is because there is nothing equitable in the administration of this system by the Veterans Administration. In fact, it is having a profound negative effect on the quality of health care in many of our veterans health care institutions across the country, resulting in the deterioration of the health care of veterans and their health and even the loss of life in many instances.

Mr. Chairman, I would like at this time to draw to the attention of the House to the impact of these proposed cuts in veterans health care funding in various sectors of the country which will take place shortly unless we intervene and make it impossible for the Veterans Administration to implement this program.

They are as follows: For network number 1, Boston, serving Maine, New Hampshire, Vermont, Rhode Island, and Massachusetts, the cut there will be $38.8 million. For Albany, serving upstate New York, the cut there will be $12 million. For New York City, serving lower New York, Newark, and New Jersey, the cut there will be $48 million. For Pittsburgh, Pennsylvania, serving Pennsylvania, Delaware, and part of West Virginia, the cut there will be $3 million. That is network number 4.

For network number 6, headquartered in Durham, serving North Carolina and part of West Virginia and Virginia, the cut there will be $1 million. For network number 9, headquartered in Nashville, serving Tennessee, part of West Virginia, and Kentucky, the cut there will be $12 million. For network number 12, headquartered in Chicago, serving part of Illinois, Michigan, and Wisconsin, the cut there will be $28 million.

For network 15, headquartered in Kansas City, serving Kansas, Missouri, and part of Illinois, the cut there will be $20 million. For network 17, headquartered in Dallas, serving Texas, except for Houston, the cut there will be $10.5 million. For network 19, headquartered in Denver, serving Colorado, Wyoming, Utah, and Montana, the cut there will be $13 million. In network 22, Long Beach, serving California, lower California and Nevada, the cut there will be $23 million.

Mr. Chairman, I will offer at the appropriate time an amendment to strike this provision from H.R. 4194, which will result from these cuts taking place. I wanted at this moment to take this opportunity to bring to the attention of the Members of the House the impact of these cuts.

Mr. Chairman, I yield to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, what the gentleman is proposing is to roll back VERA, which was passed last year, which made an allocation on funds based upon population. As the gentleman knows, there has been many, many years with the population, particularly the veterans who have been moving to the Sun Belt. As the gentleman knows, lots of hospitals have given back money that they could not even use. So the VERA allocation was worked out in the Senate and the House after strong long deliberations.

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I would like to respond to the gentleman because he raises a very important point. The gentleman suggests that the Veterans Administration has even required funds to be returned from certain Veterans Administration hospitals. This is absolutely true. In fact, $20 million was returned from veterans hospitals in southeastern New York.

At the time that that $20 million was forced to be returned by the Veterans Administration, alleging that it was excess money, enormous profound problems were taking place at the Castle Point Veterans Hospital and the Montrose Veterans Hospital.

The CHAIRMAN. The time of the gentleman from New York (Mr. HINCHEY) has expired.

(By unanimous consent, Mr. HINCHEY was allowed to proceed for 2 additional minutes.)

Mr. HINCHEY. Mr. Chairman, I will not go into detail at this moment about the profound health care affects except to say that many veterans lost their lives as a result of the return of this money. That is substantiated by a report which was done by the Inspector General of the VA itself.

So while this Veterans Resource Allocation Program is going forward, it is causing veterans to suffer unjustly and unfairly and unreasonably and is also resulting in the loss of life of veterans in these hospitals.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the gentleman from New York will rise, I do want to join in his statement and make a very strong statement of my own on behalf of New Jersey, which he did reference in his statement. But it is true throughout the Northeast and really in different locations across the country. Believe me, this should not be a regional fight.

But may I ask the gentleman, is he withdrawing his amendment in deference to the colloquy that was conducted?

Mr. Chairman, I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I did not hear the question.

Mrs. ROUKEMA. Mr. Chairman, there are a couple of questions here. We did not hear the gentleman's introduction. But I had come here with the intention of joining in his amendment and supporting his amendment. However, did the gentleman indicate on the face of the colloquy that was conducted that he is not presenting the amendment?

Mr. HINCHEY. Mr. Chairman, If the gentlewoman will yield, I thank the gentlewoman for the question, and I appreciate the opportunity to, once again, make it clear that, at the appropriate moment in the consideration of this legislation, I intend to offer this amendment.

Mrs. ROUKEMA. That was my understanding. But the question had been raised on this side. I certainly would look forward to that, because this should not be a regional issue. Clearly, the issue has been distorted here in terms of the certifiable health needs of the veterans in our region.

Mr. HINCHEY. Mr. Chairman, the gentlewoman is absolutely correct. That is my understanding. This is a very serious matter. We believe that, at this particular moment, this is the proper way to address it.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would suggest to all the parties involved that, if there is going to be an amendment later, we could discuss this later instead of talking about it now.

Mrs. ROUKEMA. That is certainly correct. And I wanted to clarify the point.

The CHAIRMAN. If there are no further amendments to this section of the bill, the Clerk will read.

The Clerk read as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and

Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $5,026,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,675,000: *Provided*, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading shall be used for or by the Council on Environmental Quality and Office of Environmental Quality: *Provided further*, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $34,666,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $307,745,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,355,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $440,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $171,138,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the Inspector General Act of 1978, as amended, $4,930,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $231,674,000: *Provided*, That for purposes of pre-disaster mitigation pursuant to 42 U.S.C. 5131(b) and (c) and 42 U.S.C. 5196(e) and (i), $30,000,000 of the funds made available under this heading shall be available until expended for project grants. The U.S. Fire Administration is to conduct a pilot project to be completed within 15 months from the date of enactment of this Act, to promote the installation and maintenance of smoke detectors in the localities of highest risk for residential fires. The U.S. Fire Administration shall transmit the results of its pilot project to the Consumer Product Safety Commission and to the Committe on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

RADIOLOGICAL EMERGENCY PREPAREDNESS FUND

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954, as amended, and Executive Order 12657, for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Director of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this paragraph during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

For necessary expenses of the Fund for fiscal year 1999, $12,849,000, to remain available until expended.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $100,000,000: *Provided*, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, as amended, not to exceed $22,685,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2000. In fiscal year 1999, no funds in excess of: (1) $47,000,000 for operating expenses; (2) $343,989,000 for agents' commissions and taxes; and (3) $60,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1999, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,619,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1999 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,309,000,000, to remain available until September 30, 2000.

□ 2340

AMENDMENT NO. 5 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 No. 5 offered by Mr. ROEMER:

Page 72, line 15, strike "$5,309,000,000" and insert "$3,709,000,000".

Mr. ROEMER. Mr. Chairman, I rise to offer an amendment with my friend, the gentleman from Michigan (Mr. CAMP), to cancel the funding for the International Space Station. While I have the deepest respect for my chairman, the gentleman from California (Mr. LEWIS), and my dear friend, the gentleman from Ohio (Mr. STOKES), who has received so many accurate tributes tonight, I deeply disagree with them on the funding for this Space Station.

Now, while the facts continue to pile up for, I think, our side to cancel this Space Station, the votes continue to go down, but I hope that my colleagues will pay attention to the debate tonight and to three reasons why I think we should cancel this Space Station.

Mr. Chairman, I hope that my colleagues will be patient at the late hour of this evening. I have three arguments to cancel the Space Station: The Space Station of the past, the Space Station of the present, and the Space Station of the future.

First of all, the past. When the International Space Station was first devised by then-president Ronald Reagan, President Reagan said that the cost of the Space Station would be about $8 billion, would house eight astronauts and do eight scientific missions. It would be completed in 1992.

Mr. Chairman, today, in 1998, the International Space Station, according to the General Accounting Office study, the total cost of maintaining, of research and development, of protecting the International Space Station, has gone from $8 billion to $98 billion.

Now, one might say, $98 billion for eight missions, that is not too bad. Well, of the eight missions, staging is gone; transportation, no, we cannot do that anymore; manufacturing facility, we cannot do that anymore either; assembly facility, storage facility, we cannot do any of those. But for $98 billion, I have a bargain for you. We can do some research.

$8 billion for eight scientific missions has gone now to $98 billion and one scientific mission. That is the General Accounting Office. That is not TIM ROEMER, that is not the opponents, that is a bipartisan study. That is the Space Station of the past.

The Space Station of the present: Mr. Golden, who I deeply respect running NASA now, has appointed an outside accounting of what the Space Station is going to cost us in the future.

I was delighted to see our chairman, the gentleman from Louisiana (Mr. LIVINGSTON), he has read the New York Times, he said for the first time in a few months. Those of us who are reading the New York Times and the Post and our daily papers have also discovered that the Russians need a $22 billion IMF package. Yet they are our key partner in putting the Space Station together. They cannot come through with funding the Space Station. They need $22 billion from the IMF.

Who is going to pay for the Russian participation? You got it. The taxpayer. The taxpayer is going to pay.

Mr. Chairman, the Space Station of the present, according to the Jay Chabrow report, appointed by Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion bailout package, they are not going to be able to pay for their fair share. The costs do not cover the likelihood of losing a launch vehicle, they do not include delays, they do not include what this report, the Jay Chabrow report, indicates that will be somewhere between a $130 million and $250 million cost per month, per month, from now into the future.

So that is the Space Station of the past and the Space Station of the present. What about the Space Station of the future?

The CHAIRMAN. The time of the gentleman from Indiana (Mr. ROEMER) has expired.

(By unanimous consent, Mr. ROEMER was allowed to proceed for 3 additional minutes.)

Mr. ROEMER. Mr. Chairman, the Space Station of the future, what we have in this bill, and we have agreed to a balanced budget, we have in this bill zero funding of AmeriCorps, yet full funding for the Space Station. The President asked for 100,000 Section 8 vouchers for the poorest of the poor in our communities. We could not even pass an amendment to get vouchers for 35,000 of those poor people. And $80 million is cut for community development block grants from the 1998 level, again for the poorest of the poor, the people who have not benefitted from the economic bull market. That is the Space Station of the future, taking money away from other valuable programs.

□ 2350

The past, going from $8 billion to $98 billion. The present, Chabrow saying $120 million to $250 million cost overruns per month. The future, not funding other important programs.

In conclusion, let me quote from Shakespeare in the Merchant of Venice. He said, "They are sick that surfeit with too much, as those that starve with nothing." "They are sick that surfeit with too much, as those that starve with nothing."

Mr. Chairman, the choice is easy. Do we continue to pour 10 and 20 and 30 billion dollars into a science program that we can admit has not been successful? And do we starve with nothing the people that have not benefited from this economy? The people that did not invest in this stock market? The people that are not in the winner's circle in this economy? The people that are not getting Section 8 vouchers? The Community Development Block Grants that are not going to our inner cities?

Mr. Chairman, we are a great country because we are a good country, and we will only continue to be great if we are good. Let us be good and fair in the allocation of our resources. Let us be good and fair in the allocation of those resources to the most vulnerable people in our society.

The gentleman from Ohio (Mr. STOKES) talked so eloquently about a GI program that helped his family, and about temporary welfare. What about AmeriCorps to help our people get to college? What about Community Development Block Grants to help our inner cities? What about justice and fairness? Let us make some of these tough decisions to be just, fair, and right to all Americans.

Mr. Chairman, I urge my colleagues to please support the bipartisan Roemer-Camp amendment.

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

Mr. Chairman, I would first like to inquire of the gentleman from Indiana (Mr. ROEMER), we have had this debate on a number of occasions, as the gentleman knows. If people do appear restless, it is not just the hour, but it is we have heard the argument so many times.

Mr. Chairman, I would inquire of the gentleman whether he is in a mood to consider some time limitation on this amendment.

Mr. ROEMER. Mr. Chairman, if the gentleman from California (Mr. LEWIS) would yield, let me say to the distinguished gentleman that I have not been able to control the time that has been allocated to this bill all day.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I can tell that the gentleman is not interested.

Mr. ROEMER. Well, we may not have very many speakers, Mr. Chairman, and we may not need a time agreement. I am sure after the gentleman from Michigan (Mr. CAMP) speaks, we may not have very many more.

Mr. LEWIS of California. Mr. Chairman, again reclaiming my time, let me say that we have had this discussion on many an occasion. The last time we had a vote on this same proposal, admittedly that vote was on the authorization bill, the vote was 305 to 112 in favor of maintaining the station.

The important point here is that I think my colleagues recognize that one of the reasons that this bill is so difficult, and that the gentleman from Ohio (Mr. STOKES) and I work so hard to provide some balance in this bill, is because we have got a variety and mix of important Federal responsibilities within this package.

The question of VA medical care is a very, very critical part of this bill. Our housing programs are a very important part of the bill. EPA is. But also NASA's work happens to be a part of our bill. And for someone to suggest that one way or another we are going to juxtapose our vital work in space versus housing programs is not only not fair, it is a reflection of a lack of understanding of the significance of the work of this subcommittee.

There is not any doubt that Space Station is fundamental to our future work in space. And, indeed, if we find ourselves at one point or another faltering on Station, then NASA, in my

judgment, will all but disappear from being the agency that we now consider it to be. Its budget will shrink dramatically and our role in space will be radically impacted.

I think it is important for my colleagues, those who are especially mindful today of the role and importance of the United States human space flight program, I think it is important for them to focus upon the sad news that we received yesterday of the death of Alan Shepard, the first American in space.

On May 5, 1961, Alan Shepard was launched into space aboard a converted missile which had an imperfect success record in a capsule that had never been tested with a human occupant, with many, many questions about what the impact of space flight would be on human beings. It was this Nation's first step in human space flight.

Alan Shepard was welcomed back from his brief 15-minute suborbital flight 115 miles into the Florida sky and 302 miles downrange, and as a true American hero he was welcomed back. He was awarded the Congressional Medal of Honor for space, two NASA Distinguished Service Medals, Exceptional Service Medal and numerous other medals and awards.

His death is a great loss to the Nation and I join with all of those who mourn his passing and celebrate his life, but indeed there is little question that America is most interested and supportive of man's role in space. Fundamental to that role in space is the work that we are about Space Station.

Indeed, to step back from that at this point in time would really be a great disservice, not just to our country but to the world's interest as well as our future in space.

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

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

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from California for yielding. Let me associate myself with his remarks. Voting down the Roemer amendment is essential if NASA is to stay alive. We have spent $22 billion already on the Space Station. There are several hundred thousand pounds of materials that are set and ready to go for launch. We should put those in orbit. We should not put them in a museum.

I have a rather lengthy statement in support of the Space Station and against the Roemer amendment, which I will not give due to the lateness of the hour.

Today, Representative ROEMER is offering an amendment to cancel the International Space Station. While he has offered the amendment before because he felt this was a poor investment of taxpayer money, he is the unexpected beneficiary today of the fact that the Space Station has run into difficulty.

Nevertheless, this amendment asks Congress to turn our backs on a commitment the United States made to 15 other countries investing billions on their contributions to the International Space Station. This would have us throw away some $22 billion the American taxpayers have already spent building the hardware for the International Space Station. Most of that hardware already exists. Several hundred thousands of pounds are being processed for launch into space at Kennedy Space Center right now. The Station's opponents would have us forego all of the scientific benefits that are going to flow from this unique research laboratory. Finally, it would turn us away from our future in the human exploration and development of space. That is not the vision of a space program that most of us have. It is not the space program that the American people want, and it is not the space program we should pass on to future generations.

The responsible thing to do for the International Space Station is to offer solutions to the program's problems, which this body did last year in passing a two-year NASA authorization. That bill contained a decision-tree that would prevent these problems from continuing and offered commercialization options that would reduce the obligations the taxpayers face while preserving the scientific research they deserve.

Since the President has declined to suggest a solution of his own to the problems created by Russia's involvement in the program or to enforce his own budget caps, Congress must hold the Administration's feet to the fire.

The Senate has proposed one option of isolating the International Space Station in its own appropriations account in order to end the financial shell games that the Administration has been playing for the last few years.

While this is an important step, we also need to hold the President to his promises. H.R. 4194 does just that, providing all of the funding for the International Space Station that the President originally promised us he would need. But, in holding the President to his original promise that the Station would cost no more than $2.1 billion a year, this bill reflects a lack of confidence in NASA's justification for program increases in the absence of meaningful reforms necessary to prevent further schedule slips and cost overruns.

The decision to fund the International Space Station at $2.1 billion despite the Administration's $2.27 billion request reflects the reality that NASA's budget numbers for this program have no credibility. In recent years, NASA has a track record of revising their estimates just a few weeks after Congress funds the Station at their requested levels. I don't think anyone should be surprised that this budget strategy has worn thin. NASA has $400 to $500 million of carryover in the Space Station program which should satisfy any budget shortfall.

Members who vote against the amendment offered by the gentleman from Indiana will vote to provide an adequate level of funding while sending a message that NASA must get its fiscal house in order.

In closing, Mr. Chairman, I feel the underlying bill continues our commitment to the human exploration of space while responsibly addressing the program management's flaws. I urge my colleagues to support human space exploration, our international commitments, and those who have dedicated themselves to get this research laboratory off the drawing board and into space.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I would announce to Members that because there is no time agreement, this will be the last debate this evening and there will be no more votes.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OBEY. Mr. Chairman, I did not hear what the gentleman from California said and I am not certain what he meant by what he said.

The CHAIRMAN. The gentleman stated that the debate on this subject would be the last debate tonight and there would be no more rollcall votes tonight.

Mr. OBEY. Does that mean that the gentleman intends to finish the debate on this amendment tonight?

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I do intend to finish the debate on this amendment this evening. We will roll that vote. We will not go any further than the NASA section this evening and so essentially this will be the end of the debate.

Mr. OBEY. Mr. Chairman, could I ask, has that arrangement been cleared with our leadership?

Mr. LEWIS of California. I believe that is correct. I have been instructed that is correct.

Mr. OBEY. That the debate will continue on this amendment until it is finished tonight, but no more amendments?

Mr. LEWIS of California. No more amendments, that is correct, and no votes. In other words, the vote will be rolled until tomorrow.

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

Mr. Chairman, I did not intend to speak on this amendment but, frankly, we have had a good day filled with a lot of congeniality and camaraderie, but one of the observations made by the subcommittee chairman frankly got my dander up a little bit.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I did not mean to do that, I want the gentleman to know.

Mr. OBEY. I simply want to suggest that I do not think that the juxtaposition that the gentleman from Indiana laid out between spending in space and spending here on the planet is at all illegitimate, as the gentleman seemed to suggest.

□ 2400

I remember being thrilled when Alan Shepard went into space, and I am still thrilled by the prospect of space exploration. But times have changed and budgets have changed. When Alan Shepard went in space, we were meeting our obligations to house people on

the ground, we were meeting our obligations to our environment, we were meeting our obligations to the poorest among us. We still had national standards for the treatment of persons who were not in the winner's circle. Today, we have none of those.

It just seems to me that when we see that this system has been redesigned seven times, when we see that the cost has exploded, when we see that this Congress is apparently willing to kill the low-income heating assistance program to keep houses warm for four million people on the face of the Earth, then I feel no guilt whatsoever in suggesting that we ought to shut down that fancy house in the sky for eight people.

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

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

Mr. LEWIS of California. Mr. Chairman, I do appreciate where my colleague is coming from. We have had this discussion a number of times on the floor, as the gentleman knows. And the gentleman certainly knows that our committee is doing everything we can to adequately fund those programs.

But having said that, within this specific category the entire administration is supporting our position regarding this.

Mr. OBEY. Reclaiming my time, Mr. Chairman, that, to me, frankly, is irrelevant. The fact is that none of these discussions have taken place on this floor since the gentleman reported out on his side of the aisle the labor, health, education and social services bill, which guts services to the most defenseless and vulnerable people in this society. And we need in that context to debate the issue that the gentleman from Indiana is trying to debate tonight.

When we are willing to kill 500,000 summer jobs for kids who started out in life just like the gentleman from Ohio (Mr. LOU STOKES), then I apologize not one whit for suggesting that the money that is being spent on the Space Station, for now, perhaps, ought to be spent down here on the ground.

When the gentleman indicates that he is willing to cut, to absolutely wipe out reading and math help for 520,000 kids in our society, then I make no apology for saying perhaps the Space Station ought to take the back seat.

When the gentleman is going to kill safe haven after-school centers for 400,000 kids on the ground, then I make no apology for trying to take on or to raise the question of whether the spending in space ought to be cut back.

We talk about making tough choices here. Oh, yes, we are really tough if we are willing to take on the kids, if we are willing to take on the poorest people in this society with no lobbies. But, boy, I do not see anybody very tough when it comes to taking on the contractors who are behind this, or behind the C-130s, or behind the F-22s, or any of the other hardware that produces the glitz and produces the campaign contributions. Not many campaign contributions for supporting help to low-income kids.

And I think that is why we will have a quite different outcome on these votes. And I could not help but say that after I heard the direction that this debate was taking.

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

Mr. Chairman, I rise in support of the Roemer-Camp amendment. Last year I stood on this floor and urged my colleagues to vote down additional funds for the International Space Station, and at that time the launch of the first module was scheduled for November and the total cost of the project was estimated to be $94 billion. Well, guess what? The module was never launched and now the cost overruns estimate this project at $98 billion.

Last year the Congress decided to stick with the Space Station. I now ask my colleagues when is enough enough? Will we vote to end funding when the costs pass $110 billion, $120 billion, $150 billion? How high do we have to go before we say no more?

Many of the original uses for the $8 billion Space Station, as were so ably pointed out by my colleague, the gentleman from Indiana (Mr. ROEMER), have now been superseded by other NASA projects and missions and other technological advances. Now the Space Station is simply a floating lemon that will cost 24 times its weight in pure gold. This is a project plagued with delays, cost overruns and unfulfilled promises. The Russian assurances have fallen short and the American taxpayer has been left picking up the tab.

The other day I listened to two renowned scientists argue this $98 billion black hole is not necessary and is actually hurting the sciences. In fact, the presidents of 10 different scientific societies have called the Space Station, and I quote, "A project of little scientific or technical merit that threatens valuable space-related projects and drains the scientific vitality of nations." The $80 billion not yet spent on the Space Station could provide an enormous benefit to earth-based research.

I am not advocating we stop exploring space. In fact, I support space exploration. But we must recognize the costs of this project far exceed the benefits. Last year NASA captivated the world when it successfully landed the Pathfinder on Mars at a cost of $267 million, a mere fraction of the cost of the Space Station. Let us not forget that while space is infinite, the American taxpayers' deep pockets are not.

We must get serious about what the core functions of the Federal Government are. We continue to pay over $350 billion of interest on the debt year after year. And while children have been amazed by the promises of space exploration and the excitement it generates, I am concerned with the debt each of these children will inherit. Congress should invest the $80 billion in those children's future, not in a flying lemon.

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

Mr. Chairman, I appreciate the persistence of the gentleman from Indiana and the gentleman from Michigan. The Space Station was being debated when I first got here. And one of the major arguments for it was that we had to do it before the Russians did. I would recommend that people go back to the CONGRESSIONAL RECORD. This started out as something we had to do to frustrate the Russians. We now have to do it to help the Russians. The justification has flipped on its head, but the thrust goes forward.

The gentleman from California does do, in my judgment, a very good job within the constraints that he has. We want to lessen his constraints. I do not know how many Members of this body have told veterans how much they regret having cut the smoking benefit. I daresay that a great majority of the Members of this House have said to the veterans, "I am very sorry, but the constraints made me do it." This is the very appropriations account where we could reinstate that veterans health benefit for smoking simply by reducing this particular item.

So the gentleman says, well, we do not understand how the Committee on Appropriations works. We do. We have rules, and the rules say the allocation goes to this particular subcommittee and they decide among NASA and EPA and HUD and the Department of Veterans Affairs. Members have a right to say that they want to continue with the Space Station. I do not think Members have the intellectual or moral right to say to veterans that they are very sorry that they could not fund their health benefit if they vote to go forward with the Space Station. That is the kind of choice we are making. Or to say to people, we wish we could clean up more Superfund sites, or house more people who are hurting.

The other thing I must say. We sometimes get into rhetorical excess. The worst things I have ever heard about NASA sometimes comes from its defenders, because people come to the floor and say if we kill the manned Space Station we are killing NASA. What an unfair denigration of the important scientific work of NASA. The gentleman from Michigan just mentioned the Mars Pathfinder. That was not dependent on the Space Station. Indeed, those other things are competitors with the Space Station.

The gentleman from California correctly mentioned Alan Shepard, one of

our great heroes. And we all lament the fact that he died. We care a lot about human life.

□ 0010

When we put human beings into the situation, we greatly increase the cost because of our concern for human life. There are times when human participation is scientifically very important.

The justification for the amount of money being spent to put those people up in space in a Space Station is not scientific. It is psychological. It is political. Go back and look at what the arguments used to be.

No one has argued to me and I have never seen any group of reputable scientists not directly involved in this project say that if the Federal Government were to make available to scientists this amount of money, that is how they would choose to use it.

Of course there is some worth to it. It is not money wasted. The question is not whether it has got any value at all but whether this is the single best use of that money. And no one thinks there is a scientific justification. As I said, this started out with a political justification and a military justification.

I am sorry I did not have time to go back into old CONGRESSIONAL RECORDS of 10 years ago, when we were being told we had to do this as a matter of national security, we had to do it because if we did not do it the Russians would do it. Now it has become a part of the foreign aid program.

The general point is very clear, as the gentleman from Indiana (Mr. ROEMER) has made clear, the money has been spent. The gentleman from Wisconsin said we already spent $22 billion. I assume what he was doing was submitting for us an illustration in the dictionary of idioms.

The gentleman from Wisconsin wanted to illustrate the meaning of saying "throwing good money after bad." Because the argument that having spent $22 billion on a project that was originally supposed to cost 8, we should now spend another 70, has a logic which defies me.

I do not understand why having already spent three times as much we were told we should, we should go on so we spend 12 times as much. We are in a very constrained situation. There is no case to be made that this is the best use of the money.

I hope the amendment is adopted. If the amendment is adopted, we would have more money to use for housing, for the Environmental Protection Agency, for restoring the smoking health benefit for veterans, and to enhance the scientific mission of NASA. Because the great bulk of the money could go back to NASA.

The gentleman from Indiana (Mr. ROEMER) has made an excellent case. Does anyone think if we had been told at the outset that this is what the Space Station would cost and what it would give us that we would have voted for it? The answer is no. It is not too late to ask for the correct information.

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

Mr. Chairman, I listened with interest to the gentleman from Massachusetts (Mr. FRANK) try to set a comparison about how we spend money in the Government. And I want to commend the chairman, also a member of the Committee on Appropriations, not the subcommittee, but the whole committee, and I appreciate the chairman and the subcommittee allocating the funds appropriately in a very tough budget climate.

I would just say to my colleagues, what is it worth to cure cancer, that is what we are talking about, or helping cure diabetes, or helping cure paralyses? There is a great body of scientific research going on through NASA that is planned for the International Space Station to cure these diseases, to grow cells and try to see what impact microgravity or near-zero gravity has so that we can employ that kind of technology and research and information and bring it here on earth and replicate it and cure disease.

So I think I make the argument very forcefully that I think we are going to do perhaps more to help people in the years ahead through the International Space Station through medical research. It has got a tremendous potential to help people in need. And there is nothing that has a greater need in our society than health care for our people and in combating disease.

I was in Huntsville and went to the Marshall Space Center just about 2 or 3 weeks ago and had a wonderful opportunity to see what is going on there. And I can say to my friends from firsthand experience, and I do not know if the gentleman from Indiana (Mr. ROEMER) or the gentleman from Michigan (Mr. CAMP) or others have gone there, but if they have not, I suggest they do to get a sense of what is being planned.

They can see the American portion of the Space Station built. It is being built now in a very high-tech environment, in a high-energy environment I might say. Certainly, Boeing is the contractor and has an interest in this, which has an interest in my state. Well, that is fine. But I tell my colleagues, the morale of the people working on the Space Station is extremely high. They have great hope and great interest in the good things that will come of this Space Station.

So I would just say to my friends and my colleagues, I think this has great, great future value, this whole Space Station concept and all the medical research. Just from a medical research standpoint, I think there is tremendous potential in the disease areas that I mentioned earlier, cancer, diabetes, microgravity and paralysis. I mean, there is a tremendous potential here that we should not overlook and be short-sighted about.

So I urge rejection respectfully of the Roemer-Camp amendment because I really think this is something we have to do in order to meet the future needs of our country and pay attention to the future and certainly the health future of this great Nation and the world.

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

Mr. Chairman, I rise in strong support of the Roemer-Camp bipartisan amendment. And to my colleague from California, the subcommittee chairman that I respect so very much, I think we should know that maybe the reason this discussion is ongoing from year to year to year is that each year we are trying to make it clearer to those who are voting here on the House floor that our investment, that of the United States, and Russia's investment is going deeper and deeper in the hole and, in turn, it is negatively affecting our very own domestic budget. And those of us that keep talking about this do it for a purpose. I mean, bad money after good money does not make sense when we have such tight budgets.

I oppose further funding for the Space Station because I believe it is wasteful. It is wasteful spending that drains resources from our Nation's most urgent needs. This project, I believe, is an unwise investment for our Nation, not only fiscally but also scientifically.

To date, the Space Station has experienced cost overruns resulting in billions of dollars that our taxpayers are paying, and it comes out in bills to them. Even worse, Russia's inability to pay its fair share of the project is extremely troubling to me. This is an international project. I mean, it is supposed to be. I think that is one of the things we should be deciding, is it or is it not an international project.

Also, supporters of the Space Station say we can learn many things from microgravity research. We just heard that. Well, with $1.6 billion savings from this amendment, we could offer college education, including tuition, fees and books to 500,000, a half a million, students who could not otherwise afford college right here on earth.

With $1.6 billion, we could provide prenatal care to pregnant women who do not have access to routine health care right here on earth. With $1.6 billion, we could expand the WIC program so that all eligible pregnant and nursing mothers can get the food supplements; and we would still have money left over.

Supporters of the Space Station make claims that research in space will advance health research. Well, with $1.6 billion, we could fully fund

the National Heart, Lung and Blood institutes right here on earth.

With limited funds available for programs right here on earth, we must focus our resources on our Nation's most urgent needs in order to ensure a bright future for our children.

Let us not send our tax dollars out in space on a project that is clearly lost in space when we have needs not met right here on earth. Let us cancel the Space Station. Do it now. Stop wasting money. Vote yes on the Roemer-Camp amendment.

□ 0020

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the requisite number of words. I rise in strong opposition to the Roemer amendment. In this era, more than at any other time in history, our future depends on our staying on the cutting edge of the knowledge frontier. That is why in this budget and other parts of the budget we have this year and we have other years increased our investment in NIH, in the National Institutes of Health. That is why we struggled to get more and more money in the National Institutes of Science. That is why we support R&D tax credits, to help companies invest the amount into research and development that they need to be on the cutting edge of product development. If you are not on the edge of science, if you are not out there pressing the frontiers of knowledge now, in this era of extraordinary, fast-paced change, our children will not have the economic opportunity we would hope for them nor the opportunity to improve the quality of their lives that we have had.

Investing in the Space Station is part of keeping America at the cutting edge of the knowledge frontier. That will have enormous dividends for people here and now. Our work on the Space Station is leading to developments that could more than make up for our Federal investment. For example, the U.S. is currently using space-based research to gain a better understanding of combustion, which accounts for nearly 85 percent of the world's energy production and is a leading cause of the world's atmospheric pollution. Consider that U.S. fuel consumption is approximately $300 billion a year. If microgravity combustion research helps make our energy use more efficient, even if we only use 1 percent less fuel, we will save more than $3 billion a year and reduce industrial pollution at the same time. The kind of research that can go on in space is the kind of research that cannot go on elsewhere and can have enormous dividends both in freeing up resources and in attacking some of our most serious problems. But it is not just what we can do when we get there. It is what we are doing in the process of going there. And, yes, it has been more expensive than we thought because we have never done it before. It has taken longer than we thought, because no one has ever done before what we are trying to do in building this Space Station. But we are learning an enormous amount along the way. What we are learning is strengthening our manufacturing base and our capabilities in many, many ways.

To build a Space Station, you have to build product, parts, components to a 30-year life standard. You cannot run down to the hardware store and get something to repair it if it does not work in space. You cannot run back down to Earth and get a fix-it quick. When we work to build a Space Station, we are building to 30-year life standards and that has never been done and has extraordinary implications for manufacturing and other areas. It has led to the development of increased productivity through integrating design and manufacturing in frankly truly revolutionary ways.

When I go through the plants in my district that are building parts for the Space Station and see the developments that have come out of this demand for 30-year life, it is awesome. It is going to have enormous implications as the years go by for the quality of products like automobiles, for their safety, for their strength, for so on and so forth. When I go into companies in my district that design and produce for the Space Station, I am struck by the extraordinary challenge of keeping a clean environment, clean air, clean water within a tight capsule for months and years at a time. Think what that has already done for the science of cleansing air, for managing liquids. It is extraordinary what we have already learned just in trying to invent to the standard that the Space Station challenge puts upon us.

And so along with the Space Station commitment goes the development of many, many thousands of high-paying jobs, 500 high-paying, high-tech jobs just in the companies in Connecticut. These are the very kinds of jobs that not only can do this job but keep America at the cutting edge. I urge Members to be far-sighted and oppose this amendment.

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

Mr. Chairman, I rise in opposition to the amendment. This amendment would end U.S. participation in the international Space Station program. Once again as we do year in and year out, we find ourselves debating whether or not to continue U.S. leadership in this vital space initiative. Opponents of this program ask you to focus on cost. But any cost analysis must also involve a benefit analysis. The benefits to be gained from research and technological leadership reverberate far beyond space exploration and will be shared by all Americans.

The international space station will serve as a research laboratory for present day advances in medicine. Information gained will lead to enhanced drug design and better treatment of diseases.

Technology developed for the space station will also lead to advances in numerous fields, including environmental systems, communications, and computer technology. Micro technologies and robotic systems developed for the space station are just two areas where businesses are already reaping benefits. More gains will follow.

New technologies will allow for the expansion of existing businesses and the creation of new businesses. Advances gained through NASA programs have been, and will continue to be, an important source of commercial development.

Just as the race to the Moon propelled the United States to the world leadership role in science and technology in the second half of the 20th century, the space station will guarantee the United States remains the leader far into the 21st century.

While the full participation of our partners remains a concern, NASA has taken concrete steps to plan for any contingency. NASA is proactively addressing these problems—establishing the Russian program assurance budget to provide contingency planning funds, and initiating development of an interim control module should the Russian service module be delayed.

With the first components of the space station planned for launch in the next several months, now is not the time to retreat from our commitments.

I urge my colleagues to oppose this amendment and continue support for our Nation's space program.

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

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I associate myself with the remarks of the gentleman from West Virginia, and simply say that for each dollar that we invest in the space program we receive up to nine in return in new products, technologies and processes on Earth.

I have the greatest respect for the gentleman from Indiana (Mr. ROEMER), but let me say to you that the numbers are somewhat skewed. The gentleman from Indiana knows and we know that the original 1984 estimate of $8 billion for the Space Station was development cost. In 1993, NASA estimated that a redesigned international Space Station would cost $17 billion. The $17 billion include research and operating expenses, along with hardware development. The $98 billion figure includes costs such as $43 billion for the space shuttle flights and $13 billion for 10 years of operating expenses. The real cost for the international Space Station is $21 billion.

Frankly, Mr. Chairman, I would simply say we cannot afford to get rid of the Space Station. Our Russian friends and our copartners around the world

are committed to saving the Space Station. The Space Station provides us in the show and tell with an array of opportunities, air conditioning, advanced materials for airplanes and many others. I oppose the amendment because I believe we cannot look back, and in tribute to Alan Shepard we must look to the future. I think all Americans would want us to do that.

Mr. Chairman, I rise against the amendment offered by Representative ROEMER, and in support of our efforts in space.

The persons who support this amendment argue that they can no longer afford to invest in the International Space Station. I believe, on the other hand, that this space station is an opportunity that we cannot afford to pass up.

NASA has a proven track record. The science experiments that have been performed have led to spinoffs that not only make our lives more convenient, but also improve our health and well-being. For each dollar that we invest in space programs, we receive up to nine in return in new products, technologies, and processes here on Earth. Fellow colleagues, we owe it to our constituents to make sure that the International Space Station becomes a reality.

I want to remind you all, the materials research that has been done by NASA in space has been invaluable to us. With the help of the International Space Station, we can only expect more breakthroughs and innovations for manufacturers, businesses, and consumers.

I would like to give you an example of how research in space is helping our materials research on Earth today. If you look around, you will notice a plethora of metal items. Metals like steel and aluminum are often cast directly into the shapes that you see, and even more likely, the metal started out as a liquid, way back at the beginning of its manufacturing life.

If you were in the business of making things out of metal, like casting an engine block for a car or the circuitry for a microchip, you would want to know some very important things—for instance, how durable will the metal be? Or how long will it take to make this product?

For manufacturers, knowing these things is extremely beneficial, because it affects the cost and the quality of their products. To answer these questions, scientists must rely on the science of micro-physics, or the study of microstructure, which helps predict the behavior of materials at the molecular level.

Because gravity affects the way that things solidify, gravity also affects the formation of microstructure. This makes it very difficult for engineers and scientists to predict what will happen when you begin the manufacturing process. In other words, it is simply too difficult to make any predictions about what gravity will do to the formation of the microstructures, unless you know what will happen when there is no gravity to complicate matters.

Experiments conducted on the Space Shuttle by Professor Martha Glicksman have helped materials scientists and engineers take significant strides toward the goal of being able to predict how microstructures will develop during the manufacturing process.

As a benefit of these experiments in space, scientists have obtained the highest quality information every produced on the development and evolution of dendrites, a basic building block of microstructures. This research has produced a benchmark against which theories and computer simulations that predict microstructures can be rigorously tested.

This information would not be available to us today without the help of NASA, and its programs in space. The International Space Station will undoubtedly produce similar breakthroughs, especially in light of the fact that these experiments will be conducted over a much longer period of time than those done on the space shuttle.

By funding the International Space Station, we make an investment that is bound to pay off. I urge you all to vote against this amendment, and for our future.

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

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

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding. I specifically wanted to respond to the gentlewoman from Texas as well. I appreciate both of your participation in this.

The gentlewoman from Texas mentioned very briefly the international partnership that is involved here. We have not discussed that very much this evening, and I think certainly we should. The fact that our international partners in the European space agency are being so cooperative, the fact that we do have an ongoing relationship with Russia in spite of their economic difficulties in which they are putting the money that they are obligated to in the pipeline. The reality that this is now a world Space Station that provides our future hope for man's work in space, that has so much potential in terms of economic and medical and other kinds of breakthroughs, is a very important item, and I appreciate very much both of you participating in it.

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

Mr. Chairman, I rise in strong opposition to the Roemer amendment and I encourage all my colleagues to vote "no." We have been engaging in this debate for many, many years and it is true that each year more and more Members vote against killing the Space Station and in support of continuing this project. The reason I believe is obvious. This project has a tremendous potential to yield incredible benefits to mankind. Balancing the budget is a very, very noble task and it is certainly something that is important to our children. Indeed, it is a very good thing for us to do that. But I can tell you from my experience of talking to kids in my district, while they recognize balancing the budget is good and fixing Medicare is good and cleaning up the environment is good and even improving education is good, nothing excites them more than telling them and teaching them about our space program and the Space Station and its potential.

□ 0030

Indeed, I have talked to teachers all over this country, and they all invariably tell me, teachers of math and science, that there is nothing that motivates their kids and their class more than the Space Station and talking about the manned space program.

Here to my left is a diagram of the Space Station when it will be fully assembled and complete. I am very happy that the chairman of the committee spoke about the international partners involved with this. We have the Europeans who have spent over $6 billion; the Japanese, $4 billion; the Canadians, $1 billion.

This project is on the verge of being a huge success. We have no idea of the potential spin-off benefits to mankind.

Indeed, I spoke on the floor of this House 1 month ago about a product that is a spin-off of our space program called Quick Boost that has the potential to improve the efficiency of air conditioning units all over this country and has the potential to save energy costs equivalent to the entire cost of our manned space flight program from its very beginnings, from the beginning of the Mercury Program to this date.

I encourage all of my colleagues to, again, resoundingly reject the Roemer amendment and vote "no" on the Roemer amendment.

Mr. Chairman, I yield to my very good friend and colleague, the gentleman from the great State of Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Chairman, I thank my friend, the gentleman from Florida for yielding. I want to associate myself with his remarks. I, too, rise in opposition to the Roemer amendment.

This is a first for us. We have debated this amendment many, many times before. We have had a fair fight. But never have we debated it in the wee hours of the morning like this and under these circumstances.

But my colleague, the gentleman from Florida, makes excellent points about our international partners. By the end of this year, NASA and the international partners will have built over half a million pounds of flight hardware. The first two elements of the Space Station will be in orbit. It is too late to turn our back on this project now. If we turn our back on this project, we are turning our back on human space flight; and we cannot do that either.

Make no mistake about it, the type of medical research that we have been talking about here tonight, we cannot do that unless we go up there in space on a permanently manned orbiting laboratory. This has been in design. We spent millions and billions of dollars on this, and we cannot turn our back on it.

I also want to congratulate the chairman of the committee and ranking member of the committee. They have had to make some tough choices. They have had to engage in a tough balancing act, but they have done it. I thank them for it. We in Alabama are proud of them for having done it.

I say let us get off of NASA's back. We have made them dot I's. We have made them cross T's. We held the NASA employees hostage. It is time for us to move forward. Oppose the Roemer amendment.

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

Mr. WELDON of Florida. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding to me.

I want to just say to my colleagues as well as all who might be interested to this discussion, no one has made the contribution that the gentleman from Florida has regarding this effort. His consistent and intensive focus upon the future that we have in space and the work that involves the Station itself is very much appreciated, and he has made a very significant difference in the effectiveness, not just in our discussion, but also the rapidity of which we are moving forward in this program.

Mr. WELDON of Florida. Mr. Chairman, I want to add one more thing. I have gone into the Space Station processing facility of Kennedy Space Center, and I have gone into the first elements. I want to tell my colleagues that the people who are working on this program are excited and ready. The kids are excited to see this program flying in the sky. The potential benefits that can accrue to mankind are huge. They are not even imaginable.

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

Mr. Chairman, I rise in support of the Roemer amendment. I do so reluctantly because I have always been a supporter of the space program, and I believe that we have a bright future for manned exploration in space.

But I think that it simply does not make sense to continue with this project at this time on several bases. First, I want to associate myself with the remarks of the gentleman from Wisconsin (Mr. OBEY) in terms of the priorities within this budget now in terms of our social programs here at home.

Second, however, let us talk about the space program. I fear we are repeating a mistake we made in the 1970s and 1980s. Santayana defined a fanatic as one who redoubles his efforts when he has forgotten his purposes. I think that characterizes the Space Station.

We are told that the Space Station is now justified for manned space exploration. But we do not have a program for manned space exploration. If we had made a national goal of reexploring the moon, of going back to the moon and starting to exploit its natural resources, of having a manned program for Martian exploration, I might support such a program; and then the Space Station would make sense as part of it.

But every justification for the space program that I have seen, save one, can equally or better be done without the expenditure and the Space Station. That one is research on the long-term physiological effects of manned space flight. For that, we will need a Space Station. But we do not need that until we make the commitment to manned space flight to Mars, and then we should do that.

This program is eating up NASA's budget. We saw the same thing with the space shuttle. Why are we launching satellites on Chinese rockets? Forget the controversy for the moment of the President and President Bush and Reagan about the waivers, but why do our industries want to launch satellites on Chinese rockets? Because they are cheaper, $200 million to launch cheaper. Why?

Why did the United States not develop cheap space rockets, cheap launching? Because everything in that budget was devoted to the space shuttle in the 1970s and 1980s, a dead end.

Our space rockets today are still based on the Atlas and Titan ICBMs in the 1960s. The Titan IV is our biggest launcher based on the ICBM. The Titan first launched in 1960 or 1961. Why? Because we had no money to develop cheaper commercially viable space launching vehicles because all our money was going into the shuttle.

We should be spending money now, more money on the scientific exploration of space, on more basic research that will have the spin-offs and the benefits for medical science. We should be spending more money on programs like the X-33 to reduce the cost per pound of going into orbit.

Once we have reduced that cost by a factor of 10 or 100, then we can look again at a Space Station, because then the cost of developing a Space Station will be much less because it will not cost that much to get the material into orbit. That ought to be our priority.

This Space Station is too little and too early. It is too little because why are we spending $100 billion for an eight-person capacity Space Station when the Mir Space Station held six people. It is too early because it should be done once we have the capacity because of the X-33 research, perhaps 10 years from now, to launch the components into space cheaply.

If the United States were pursuing a properly targeted space program, we would now have a crash program to develop cheap launch vehicles so that the Hugheses and Lorals and General Dynamics of our country would want to launch their satellites on our rockets because they are cheaper and more efficient, and we would not have to worry about the security with the Chinese.

We are paying for the mistakes of the 1970s and 1980s, and now we are going to repeat that mistake on a larger scale. The space shuttle, as beautiful as it is, was a blind alley because what did it get us that we did not have? It did not reduce the cost of poundage into orbit which was the promise. It diverted us from the proper courses we are to make.

At this point, we are to be spending some of this money on low-income housing units, some of this money on school, some of this money on low-income heating. We ought to be spending more of the money on cheaper, more efficient rockets, for current satellite launchers. We ought to be spending more of the money on developing the capability of launching large payloads into space at a much lower unit cost so that it makes sense for our commercial private sector to get more heavily involved with less subsidy.

Finally, let me say this is distorting our relationship with our foreign friends.

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

Mr. Chairman, I rise in strong support of the Roemer-Camp amendment to end this black hole of fiscal irresponsibility known as the International Space Station, but I do so very sadly. Mr. Chairman, I do commend the gentleman from Indiana (Mr. ROEMER) and the gentleman from Michigan (Mr. CAMP) for the courage that they are showing by offering this amendment.

□ 0040

I would venture to guess if this issue was polled in the general and abstract around the country, there would be overwhelming support for the continuation of funding for the International Space Station. But I would also venture to guess if the American people knew the facts as far as the funding and cost overruns, a program that started off at $8 billion now estimated by the GAO this year to be around $100 billion, a 1,200 percent increase, people across the county would be saying, "let's pull back and take another look at this and see if this is the right direction we need to go in."

As a representative of western Wisconsin, Mr. Chairman, who produced some outstanding astronauts for our national space program, Deke Slayton, one of the original Mercury astronauts hails from a small town in western Wisconsin, and current astronaut Mark Lee, a space shuttle astronaut who will be going up into space early next year, I am a strong supporter of space exploration and our national space program,

a strong supporter of the NASA budget, and in fact, of the next fiscal year.

Of the $15 billion in that budget, $13.5 billion is fine. It is the $1.5 billion that adds to the continuation of the International Space Station that I have a problem with. Because the space program is really what America is all about. It brings about the best in America and what we are.

Who will forget, those of you living, the moment when Yuri Gugarin of Russia was the first person to be launched into space, and the shock waves that reverberated around the country that, my goodness, we are falling behind the Soviet Union in space exploration? But, 20 days later, Alan Shepard, sitting on that Mercury Redstone rocket with courage that only he could know whether or not it was going to blow up underneath him, was the first American that was sent into outer space. And then 20 days after that, where a young president by the name of John F. Kennedy challenged our Nation to send a man to the moon and safely return him to earth.

It has brought out the best in America and what we stand for, and the hopes and dreams of not only adults, but of children, realizing the importance of science and math. Alan Shepard was a childhood hero of mine. I had Freedom VII on my dresser growing up as a kid in the 1960's. Our heartfelt condolences go out to his family tonight. He was a great American hero.

Perhaps this country would be better served if more pictures of astronauts were to grace the magazine covers today, rather than the Hollywood stars and sports heroes that seem to dominate popular culture today. Who would forget Apollo XIII and those dreaded bone chilling words, "Houston, we have a problem," and the fact that after the explosion and the machine that filtered the carbon dioxide from the capsule went under, the Director of Space Operations got all the scientists and engineers together and gave them the material that the capsule had and said, You have one hour to come up with a device that will filter the carbon dioxide out of the capsule so the astronauts can breath and we can get them home safely. As he concluded and was walking out, then he turned and said, "Failure is not an option." It was not. They came up with a device and were able to save the astronauts and return them safely.

It was one of my great honors just a few weeks ago to be able to present Commander Jim Lovell in western Wisconsin at a space show the Outstanding Wisconsin Aviator because he came from Milwaukee, Wisconsin.

The space program is a wonderful program, Mr. Chairman, there is no question about it. But what has to be questioned is the tremendous cost overrun that the American taxpayers are facing today in order to perpetuate a space program that, by and large throughout the scientific community, has limited value.

You are hard pressed to find any scientist in the entire country who will come out in support of the space program who is not already on the NASA budget. I think that sends a very strong message about the lunacy of continuing to throw good money after bad in this venture.

I think it is time that we step back, we take a deep breath, and realize what is happening with a program that is 1,200 percent over budget. And where is the end, and what is going to be the scientific value? What cannot be accomplished scientifically on the space shuttle today that can be on the space station? These are the things that we have to question. That is why we are having the debate at a quarter to one here in Washington, D.C. tonight.

In an era when we are trying to tighten our belts, to bring fiscal responsibility to this place and hopefully reduce the $5.5 trillion national debt, a 1,200 percent over-budget program is wrong. I ask my colleagues to support the amendment.

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

Mr. Chairman, why on Earth do we spend money in space?

Mr. Chairman, when a young President, John Kennedy, described his vision in 1961 of landing a man on the moon, he encountered also many skeptics. Some said it could not be done. Some said it would cost too much money. But when I watched Neil Armstrong take his first step on to the moon eight years later, I knew the naysayers were wrong, and so did my high school students, who huddled around the television set with me that unforgettable day. I saw the gleam in their eyes that inspired them to become our future engineers and future scientists.

So why on earth do we spend money in space? So our kids will have a dream to dream. Space exploration has evolved over the last 30 years to more than just romantic notions of collecting moon rocks and taking pictures of other planets in our solar system. Scientific studies conducted in space have led to thousands, if not hundreds of thousands of practical applications here on earth, as this graph here illustrates.

In fact, financing research projects in space is one of the best investments our Nation can make. For each tax dollar we spend in space, we get a $9 return here on earth in new products, in new technologies, in new improvements for millions of people around the world.

It would take too long to recount the many advances in agriculture, business and medicine that are a direct result of manned space exploration. Instead, let me tell you about some real people who have already benefitted from the discoveries made in space for the last three decades.

Let me start with someone in the district of the gentleman from Indiana (Mr. ROEMER). Weather satellite storm prediction systems and long-range weather forecasts developed during space missions helped Brent Graybill, the director of the Elkhart County, Indiana, Office of Emergency Management, to warn residents of hazardous flash floods and dangerous tornados before they destroy people's homes and take their lives, a direct result of manned space exploration.

And in the hometown of the gentleman from Michigan (Mr. CAMP), Midland, Michigan, the fire chief there, Dan Hargarten, he uses protective clothing made possible due to space research to help protect his crew from harm as they battle destructive fires, and technological advances in breathing apparatus are studied in space and will allow 68 brave Michigan fire fighters, all volunteers, to battle Florida's fire storms without losing their lives, another direct result of manned space exploration.

And in the district of the gentleman from New York (Mr. SOLOMON), the "After Breast Cancer" support group meets every Monday evening to share their experiences fighting breast cancer. Well, many cancer survivors are living longer, fuller lives, thanks to early detection of cancer cells made possible by CAT scan technology. You guessed it, a direct result of manned space exploration.

So why on earth should we spend money in space? Because we owe it to the millions of Americans who could benefit from future medical advances to continue funding, rather than gutting the International Space Station.

NASA researchers are making great strides in, for example, neurobiology, that could help my sister, Mary Jo, and countless others who are confined to wheel chairs regain their mobility.

Mr. Chairman, there are those who feel that we do not need men and women, as you have heard, in space, and that they could be replaced by robots. Of course, there are also those who say the same thing about Congress. So why on earth do we spend money in space? For the sake of my sister, and your children's children; because every dollar we spend on a space program yields $9 in returns here on earth; and because that young President said, when he stood in Houston, Texas, on September 12, 1962, This country of the United States was not built by those who waited and rested and wished to look behind them. This country was conquered by those who moved forward, and so will space.

I urge Members to vote "no" on the Roemer amendment.

□ 0050

Mr. BARRETT of Wisconsin. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, earlier this evening in this debate, one of the proponents of the Space Station described the benefits of the Space Station as indescribable. I could not agree more. And the reason they are indescribable is because they do not exist.

We have listened now for 14 years about the benefits of the Space Station, about the potential, and that same speaker made reference to the potential of the Space Station several times during his speech.

But the time comes, Mr. Chairman, when we have to move from the potential to the reality. We have heard so much about waiting for the Space Station, waiting for the Space Station, and all the benefits that are going to come from it. It reminds me of the play "Waiting for Godot," where we keep waiting and waiting and waiting and it never comes.

The Space Station never comes and the benefits never come. We have heard time and time again how the Space Station is going to help our international relationship with Russia. That this is going to improve our relations with Russia. Of course, it started out a decade and a half ago we were going to build the Space Station to ward off Russia. Things have changed, and now we are going to cement our relationship with Russia.

Have we seen that happen? No, we have seen more problems with Russia and their inability to finance their share and that has basically set back our relationship more than improved it.

We have been told that there is going to be tremendous job growth, and I agree. Frankly, if I were a representative from one of the districts, as we have seen tonight, that benefit economically from the Space Station, my colleagues can bet I would get up here and talk about the benefits. Because if we are spending $98 billion and even 10 percent of that were coming to my district, if I had $10 billion, I do not care what it would be. I would be talking about the economic benefits of the Space Station.

But if the Space Station is merely a jobs program, then we should call it a jobs program and we should spread the benefits throughout this country.

But the fact of the matter is 85 percent of the jobs are located in three States. So we have a tremendous influx of great economic resources into those three states, but does it benefit the country? I do not think it does.

But the one that kills me, the argument that kills me, and I have heard it time and time again, is how the Space Station is literally the greatest thing since sliced bread. In the 6 years I have been here, the Space Station was going to cure cancer, was going to cure Parkinson's disease, was going to cure Alzheimer's disease. Tonight we hear it is going to improve air conditioning.

Mr. Chairman, I hear these over and over again, and as I am listening to the debate the thought came back to me, the same thought I had last year, and it reminds me of the story of the emperor with no clothes, because we parade this huge monstrosity, this huge economic black hole in front of Congress and we dress it up and say it is going to cure cancer. And then we dress it up and say it is going to cure Parkinson's disease. And then it is going to cure AIDS. At some point somebody has got to get up and say the emperor has no clothes. It does not solve these problems.

Mr. Chairman, we have heard people who are proponents of the Space Station say that those of us who are opposed to it are opposed to a manned space program. That is the furthest thing from the truth. Every single speaker has talked about the joy that we have experienced because of the great steps forward as a result of the NASA manned space program. But to say that one is opposed to the Space Station means that they are opposed to sending money into space needlessly and that is a key distinction.

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

Mr. BARRETT of Wisconsin. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I think that that is an important point to clarify, because personally I am for NASA and I am for the other $11 billion that we spend every year.

I would recommend to the viewers out there at 1 o'clock in the morning who are tuned into this TV station to pick up the August issue of the National Geographic and to see the wonderful pictures of what Pathfinder did for $267 million. Did it on budget, on time, with a third of the bureaucracy that NASA has done with other projects at the Jet Propulsion Laboratory in California. Did a wonderful job and excited the Nation.

We had children all across the Nation glued to the TV, as I was glued to the TV in 1968 to watch Neal Armstrong take a step on the moon. These programs can work and we should support them. And I agree with the gentleman from Wisconsin, there are very good programs going on in NASA, but not the Space Station.

Mr. BARRETT of Wisconsin. Mr. Chairman, reclaiming my time, finally I want to compliment the gentleman from Indiana (Mr. ROEMER) and the gentleman from Michigan (Mr. CAMP) because they have been leaders in the wilderness on this issue. It is not easy to get before this Congress when there are vast resources put into promoting this program.

But it takes people I think to have the determination, like the gentleman from Indiana and the gentleman from Michigan, to continue this fight. And we may not win tonight, but sooner or later the American people are going to see that this is money that is being shipped into outer space.

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

Mr. Chairman, let me add my compliments for the role that the gentleman from Indiana (Mr. ROEMER) has played over the years in voicing his objections to the Space Station. He showed great understanding and knowledge of the space program, great tenacity.

Mr. Chairman, the system is such that he may well end up being chairman of the Subcommittee on Space and Aeronautics in the fairly near future, and he may have an opportunity to directly exercise the kind of control over the Space Station that he is trying to do with this amendment.

I do not agree with his position, and so I rise in opposition to his amendment. I would like to point out that the space program has never been judged in terms of its immediate, measurable benefits. Several mentions have been made of Alan Shepard's flight back in 1962, and of President Kennedy's announcement of the Apollo program shortly after that.

There is no way on earth we can justify the Apollo program on economic grounds. It was a one-time effort. It was a crash effort. It was done out of fear that the Russians, who had already excelled in several things, they had launched the first satellite, they had launched the first man, and it was the fear in America that we had irreparably lost our technological leadership of the world. That led the President to announce that we would send a man to the moon.

We created the Apollo program. The huge Saturn rockets, we have never used them again. We have lost the plans to them. We would not know how to build another one of them. What remains is in some museum somewhere. And after we had successfully completed the program, then we sat back and said what will we do next?

It took us a little while to decide maybe we should go for a space transportation system instead of a grandiose plan like that. The budget of NASA at that time during the 1960s was three times what it is today. It has gone down steadily since that period of time, and I regret that. I frequently mention that NASA is going downhill more than I would like.

There was no economic benefit from that. It was merely a psychological benefit restoring the confidence of America in their ability to cope with Russia and the rest of the world.

Now, that is not quite the situation with the Space Station. Incidentally, the Space Station did not develop as a

program to beat the Russians, as the gentleman from Massachusetts (Mr. FRANK) mentioned earlier. The Russians already had a Space Station when we decided that we were going to build a Space Station.

We recognized that if we had any intention of human role in space, that it had to be based upon the ability to create structures in space and to live in those structures and to make use of those structures in zero or relatively zero gravity for the purpose of determining the sustainability of life in space and conducting research that would be beneficial in space.

We did not even bring back a bag of rocks from the moon that we could look to and say this is the economic benefit we have reached. The Russians sent an unmanned probe to the moon, picked up a bag of rocks, and brought them back. We subsequently gathered a few, but they were not nearly as many as the Russians and so they outdid us on the one economic benefit, collecting rocks. And there was no gold or diamonds in the rocks anyway.

But what we have been almost unconsciously doing is voicing the aspiration of the human race to move beyond the bounds of earth into a new environment that is universal. This is something that attracts a huge amount of people. We cannot quantify it. We cannot measure the economic benefit. It is a matter of satisfying the demands of the human spirit; the same thing in a different sense that drove us to send the Apollo program and land the first humans on the moon.

Incidentally, those who know the Shepard story well recognize that he had one first. He was not the first man on the moon. He was the first man to hit a golf ball on the moon.

□ 0100

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(On request of Mr. LEWIS of California, and by unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

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

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

Mr. LEWIS of California. Mr. Chairman, I wanted to express my deep appreciation for not just the gentleman's commentary this evening but for the long history of his being supportive of these programs and understanding them perhaps better than anybody else in the House.

The reality is that Space Station is not just a toy out in space. I have heard several of our colleagues this evening talk about how they support NASA, they support our probe in space, support our work in space. And yet the reality is that if man is going to be in space, we need to learn many of these things that we are learning by this process.

It is not just a question of health, things that we learn from people being in zero gravity, et cetera. It is building things in space. Having men and women work in space. Indeed, if NASA is going to carry forward that Horizon project that is the dream of our people, that new horizon, it will not be done without an effective Space Station.

The gentleman's work has been extremely helpful, and I wanted him to know I appreciate him.

Mr. BROWN of California. And I want the gentleman to know I appreciate his continued support and that of his colleagues on the Committee on Appropriations.

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

Here are some facts on the Space Station. Significant development progress has been made on the International Space Station. Seventy-five percent of the development milestones have been completed. The first two elements of the Space Station are ready and being prepared for launch. Over 400,000 pounds of flight hardware have been built. By the end of 1998, NASA and its international partners will have built over a half million pounds of flight hardware. And the first two elements of the Space Station will be in orbit.

The return of U.S. astronaut Andy Thomas marks the successful conclusion of the Shuttle-Mir program. Ten rendezvous and nine docking missions, and over 950 days of U.S. astronaut experience aboard the Mir has given the United States invaluable experience in long-term space operations which has prepared NASA to more effectively conduct permanent operations aboard the International Space Station.

Space shuttle crews assigned to the first three assembly flights of the International Space Station have already been selected and begun training. The Space Station assembly crews have already been selected. The first four crews to live and work aboard the Space Station have been selected and are actively training in Russia, the United States, Europe, and Canada.

The International Space Station Research Plan has been adopted and published and selection is underway for what will eventually be 900 principal investigators conducting research aboard the Space Station. NASA remains fully committed to meet Space Station research requirements, and has included full funding for enhanced research capabilities in the budget of the program.

The Research Plan outlines the use of the world class International Space Station laboratories. Space Station capacity for data transfer has been significantly updated from the original plan.

November 20th, 1998 is the revised launch date for the U.S.-owned Russian-built control module. It will followed on December 3, 1998 by the launch of Unity, the U.S. node. Launch of the Russian Service Module is scheduled for April 1999. Assembly will be complete in January 2004.

The Russian-built service module is 95 percent complete and has been shipped for final outfitting and testing. As a hedge against Russian Service Module delays, NASA has modified the Russian-built control module and is developing a U.S. Interim control module in the event additional Service Module delays are encountered.

Although the recently issued report of the Cost Assessment and Validation Task Force, headed by Jay Chabrow, has concluded that technical and schedule risk could force total International Space Station costs to reach $24.7 billion, NASA has not revised its existing estimate of $21.3 billion.

NASA continues to evaluate other contingency plans to address possible further Russian funding delays and is refining those plans for implementation, if needed.

Now, Mr. Chairman, the Space Station, despite its difficulties is the greatest peaceful international scientific endeavor in the history of the world. The Space Station is a platform for international peace. It is a platform for international science. It is a platform for national and international economic growth. It is a platform for future generations.

Children sense it. In my own district I saw JOHN GLENN speak to a school full of elementary children, and they stood transfixed as he talked about his flight, as he talked about outerspace, as he talked about where America was going for the future, because they saw it as their future as well.

The Space Station is a platform for future human achievement. It will help us grow the economy of the future, to improve the quality of life for all people. Twenty-nine years ago the United States became the first Nation to land an astronaut on the moon. Now, what if Congress had told John Kennedy, when he set out to make a lunar landing a national goal, what if Congress had said, "No, you can't. It is impractical. It is wasteful." Twenty-nine years ago the people of the United States stood transfixed as we saw Neil Armstrong take one small step for man, one giant step for mankind.

One mission after another, the space program has kept advancing America's frontiers. Advancing our dreams. Now, the poet Browning once wrote, "But a man's reach should exceed his grasp or what is a heaven for." The Alan Shepards, the Gus Grissoms, the John Glenns, the Buzz Aldrins, the Christa McAuliffes all represent the courage, the vision of this great country.

America is a practical Nation. We understand cost benefits, and there have

been practical benefits, as has been pointed out, $9 returned for every $1 spent in the space program. But America, too, is a Nation about a ceaseless quest for achievement.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KUCINICH) has expired.

(By unanimous consent, Mr. KUCINICH was allowed to proceed for 1 additional minute.)

Mr. KUCINICH. Mr. Chairman, the stars which emblazon our flag, which ring this chamber and which surround that eagle that looks down on us every day, those stars could also represent the stars that we reach for.

Our future as a Nation is certainly about what we do on this earth, but it is also about the sky above. It is also about the human heart exploring the unknown. Americans know this. That is why they support the space program, and that is why they are hoping this Congress is going to support the International Space Station.

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

Mr. Chairman, I will not take my whole 5 minutes, but I want to thank my colleague from Ohio and all the speakers this evening, because I think what they are talking about is what really America is about. And I want to thank my colleague from Wisconsin, who is here and said if he had part of this in his district, that he would be for it.

Well, I do represent the Houston area, but I do not represent part of the NASA area. In fact, my joke is when somebody in my district gets a job at the Space Station, or NASA, in Clear Lake, they actually move to the district of the gentleman from Texas (Mr. LAMPSON) or the district of the gentleman from Texas (Mr. DELAY). They are not in my district, because they move closer to their jobs.

I rise in opposition to the Roemer amendment because it strikes the funding for the International Space Station. The International Space Station represents the future of space exploration for our country. It represents a high-tech lab whose innovations will have countless applications in the daily lives of Americans. Whether we live in one of those districts that have the module being built or not, it represents an era of international cooperation that everyone will benefit from.

We heard tonight the talk about how the Russians may not be able to do their part. It is not just the Russians, it is lots of other countries, our neighbors in Canada and Japan and in Europe.

To date, the International Space Station has been a model of international cooperation and responsible management. If Congress does undermine the funding for the Space Station with an unexpected reduction, it will represent a major reversal in the commitment made to the program's stability over the past few years and it will be a betrayal of our entire international partners.

The International Space Station is well on its way to assembly, with the first of the hardware elements already in the final stages of preparation for launch in November of this year, just 5 months away.

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Critics have said the cost for the life cycle of the space station has dramatically risen, when in fact the cost for the life cycle of the space station has actually gone up only by 2 percent in the past 3 years.

Mr. Chairman, this debate is more about not necessarily the space station. I watched one of our astronauts, Dr. Ellen Ochoa, visit middle schools in my district. It is an inner-city district in Houston, predominantly minority children in those districts. I watched Dr. Ochoa captivate those students with her talk of being in space and what she is planning to do.

That is what we are talking about, the future of our country, the future of those middle school children. Whether they are white, black, Hispanic, or whatever their nationality, space is their goal, and that is why I think it is so important and that is why I think tomorrow hopefully, when the House votes, we will vote again resoundingly to defeat the Roemer amendment.

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

Mr. Chairman, I have in my hands a 5-minute speech praising the gentleman from California (Mr. LEWIS) who has done a terrific job this year in cooperating with the authorizers. We have had such a good relationship that I wanted to praise him in this speech. I also in this 5-minute speech talk about the NASA budget, but instead I will include this in the RECORD.

Mr. Chairman, today the Appropriations Committee has brought before the House a bill which, a bill which, among other things, funds our nation's civilian space agency, NASA, for fiscal year 1999.

As chairman of the authorizing subcommittee for NASA, I think it's fair to say that there has not always been perfect agreement between the authorizers and appropriators on the priorities for NASA's budget.

But this year I cannot say enough to praise the FY99 NASA appropriation in H.R. 4194 that my good friend from California Mr. LEWIS and my friend from Ohio, Mr. STOKES, have brought to the floor today.

Many of the top priorities of the Science Committee, as expressed in H.R. 1275, the bipartisan Civilian Space Authorization Act which this House passed last year, have been honored and emphasized in H.R. 4194. Let me just mention a few:

First, the Committee has sent a clear message to NASA that there is a limit to how much money we can spend on the International Space Station. I think the cut of $170 million from the ISS budget in this bill, made possible due to predicted carryover funding of $400–500 million from FY98, is the best argument against the proposed amendment by my colleague Mr. ROEMER of Indiana. The Appropriations Committee's report language on the ISS program shows that they have now joined with Chairman SENSENBRENNER, Mr. BROWN, and the rest of the authorizers in imposing standards on this Administration's performance on the Space Station. Together we are saying that the White House must fix the broken policy of its partnership with Russia, and that NASA must fix its financial and technical management of the program.

Second, the report on H.R. 4194 endorses the idea that greater commercial participation in the Station and Space Shuttle programs can both reduce and help defray many of the cost overruns in the Space Station program, and for this I am personally grateful to Chairman LEWIS.

Third, the report specifically tracks with H.R. 1275 in directing that NASA's Life and Microgravity Science office manage Space Station research, instead of the Station program office. The scientists who will use our national laboratory in space should manage their research funding, not the engineers that are building the lab.

Next, the report provides additional funding for two important science and technology projects in NASA. H.R. 4194 increases by $20 million NASA's planned $5 million funding level for Space Solar Power research, and provides an additional $1.6 million for the Near Earth Asteroid Tracking program.

Finally, the Committee's report provides an increase of $30 million for the program that NASA Administrator Dan Goldin declared was his top priority for additional funding above the President's request. This money is for Future–X, a program of additional experimental launch vehicles to carry on the progress we are making with the X–33 and X–34 projects. Mr. Chairman, reducing the high cost of space transportation has been my top space priority since I joined the Congress and the Space subcommittee in 1989. By providing full funding for the X–33 and X–34 programs, and this funding increase for the Future–X program, we are taking steps to ensuring that there will be a continuing stream of improved technologies to both our commercial space industry and to our military. I am particularly gratified that the Committee directs that half of the Future–X budget is to be spent in cooperation with the Air Force's military spaceplane program. This honors the President's Space Transportation Policy and Administrator Goldin's testimony to my subcommittee that NASA would develop new space transportation technologies for and in cooperation with the Air Force.

I must admit that there is one small item in the Committee report which gives me some pause, and that is the $10 million for Liquid Flyback Booster studies. Over the past year or so I have found that the Liquid Flyback Booster concept is not so much an upgrade of the Space Shuttle as it is a stalking horse for a mission to send astronauts to Mars. Well, this Congress has no intention of approving the hundreds of billions it could cost to send astronauts to Mars. Nor, would we want to spend

taxpayer dollars to prolong a NASA-owned and-operated Space Shuttle if there are lower cost commercial alternatives, including a privatized Shuttle system. Finally, I would point out that the Launch Services Purchase Act of 1990 proscribes NASA from building and owning any additional launch systems, and this report language on Liquid Flyback Boosters would seem to go in that direction. I would hope that in conference the Chairman of the Subcommittee might work to specify that any funding for studies of Liquid Flyback Boosters could come from the $20 million NASA has requested for Space Transportation Architecture Studies, and not from critical technology efforts like X–33 and Future–X.

But let me once again state my strong support for the rest of the NASA appropriation. In summary, H.R. 4194 sends the Senate and the Administration a unified, two-part message from the House Authorizers and Appropriators. We both support Mr. Goldin's emphasis on scientific research, his interest in space commercialization, and his leadership on space transportation technology. But we are also united in saying that the Space Station program must be fixed, and fixed now.

Mr. BENTSEN. Mr. Chairman, I rise in strong opposition to the Roemer-Camp amendment to eliminate funding for NASA's International Space Station.

Some have argued that it would be fiscally prudent to eliminate the space station. Nothing could be further from the truth. In fact, it would be terribly imprudent to kill the program. We have already invested more than $20 billion in the space station. Our 12 international partners have spent more than $5 billion. Two hundred tons of hardware has been built and first element launch is less than six months away. To eliminate the program now, after so much has been invested and so much work has been done, would be the height of irresponsibility by allowing our investment to be wasted.

The International Space Station is a worthwhile investment in exploration and science, an investment in jobs and economic growth, and most of all, an investment in improving life for all of us here on earth. The space program and experiments conducted on the space shuttle have made remarkable contributions to medical research and the study of life on earth. The space station is the next logical step: a permanent orbiting laboratory. Let me highlight some of the station's potential for contributing to medical advancements, for example:

Space station researchers will use the low-gravity environment of the space station to expand our understanding of cell culture, which could revolutionize treatment for joint diseases and injuries;

The space station will provide a unique environment for research on the growth of protein crystals, which aids in determining the structure and function of proteins. Crystals grown in space are far superior than those on earth. Such information will greatly enhance drug design and research into cancer, diabetes, emphysema, parasitic infections, and immune systems disorders;

The almost complete absence of gravity on the space station will allow new insights into human health and disease prevention and treatment—including heart, lung, and kidney function, cardiovascular disease, bone calcium loss, and immune system function;

I share my good friend from Indiana's concern that continued Russian participation in this project needs to be carefully examined. The economic difficulties Russia is currently experiencing have caused several unfortunate delays in their delivery of certain space station components and this needs to be scrutinized. We need a backup plan to move forward without the Russians if necessary. But this partnership deserves every chance to succeed because of the experience and expertise the Russians bring to the table and the foreign policy benefits of continuing this partnership.

Mr. Speaker, the International Space Station is vital to continued human manned presence in space and I would urge the defeat of this amendment.

The CHAIRMAN (Mr. COMBEST). The question is on the amendment offered of the gentleman from Indiana (Mr. ROEMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 501, further proceedings on the amendment offered by the gentleman from Indiana (Mr. ROEMER) will be postponed.

Mr. WELLER. Mr. Chairman, I would like to offer my support for the FY99 VA–HUD Appropriations bill.

A project in the VA–HUD bill, called TARP, is very important to not only the people of the 11th congressional district of Illinois, but the entire Chicago Metropolitan Area. This bill contains $6.5 million for the Environmental Protection Agency (EPA) in fiscal year 1999 to go toward construction of the Calumet System of TARP—the segment that directly affects my constituents.

During the summer of 1996, floods plagued the South Suburbs of Chicago. Frequent flooding in the Chicago area causes disruptions in major expressways; and rainwater and raw sewage back up into the basements of over 500,000 homes and contaminate local drinking water supplies.

As you know, TARP is an intricate system of underground tunnels, pumping stations and storage reservoirs used to control flooding and combined sewage pollution in the Chicago Metropolitan Area. It is important to note that TARP will remove four times the amount of pollution as the City of Boston's projected removal—for approximately the same cost. To date, 93 miles of control tunnels have been completed, or are under construction, and 16 miles of tunnels have yet to be completed. To the projects' merit, the completed segments of TARP have helped to eliminate 86 percent of the combined sewage pollution in a 325 square mile area.

While we tend to think of this project as a critical flood protection measure, the truth is that the water protection is just as important. Since TARP has come on-line, we have seen a striking improvement in the quality of our waterways, bringing fish—and commerce—back to our rivers. Probably the biggest protections TARP brings is the return of our drinking water supply, Lake Michigan, to good health. By protecting Lake Michigan from raw sewage, TARP provides assurance that our water supply and that our children will be protected.

I believe that Chicago and the South Suburbs cannot afford any more delays in completing this project. In fact, the flooding that occurred this winter filled the TARP system to capacity and forced the release of 4.2 billion gallons of combined rainwater and sewage into Lake Michigan. This must be prevented.

Home and business owners are suffering, our drinking water supply is at risk, flood insurance premiums are increasing while property values are decreasing. The annual damages sustained by the flooding exceed $150 million. If this project were finished these damages could be eliminated, not to mention the disaster relief funds that will be saved. Let me point out that TARP was judged by the EPA twice as the most cost-effective plan to meet the enforceable provisions of the Clean Water Act. The South Suburbs have built a strong base of local support for this vital project. That is why it is essential that we receive the fiscal year 1999 funding to continue construction of TARP.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 4194 and would like to thank the distinguished gentleman from California and Chairman of the Appropriations Subcommittee on VA, HUD, and Independent Agencies [Mr. JERRY LEWIS] and the distinguished gentleman from Ohio and Ranking Member of the Subcommittee [Mr. LOUIS STOKES] for their hard work on this bill.

Once again, Appropriations Committee has completed the tough task of allocating limited resources for many deserving programs. As a Member of the House Banking Committee, the committee with jurisdiction over Federal housing programs, this Member is very interested in how funds are appropriated in this area.

Although there are numerous deserving programs included in this funding bill, this Member would like to mention four specific items.

First, this Member would like to commend the Appropriations Committee for increasing the Federal Housing Administration (FHA) mortgage limits under the Department of Housing and Urban Development (HUD). Prior to this appropriation bill, the floor limit for an FHA mortgage was 38 percent of the Federal Home Loan Mortgage Corporation Act also knows as Freddie Mac which was $86,317. H.R. 4194 raises the FHA limit to 48 percent of the Freddie Mac conforming home loan limit which is $109,032.

This Member had an amendment drafted which he will not now offer which would have increased the FHA mortgage limit floor. This Member believes that due to increasing new home construction costs especially in rural areas, it has become very difficult to build a new home for $86,317. For this reason, this Member commends and supports the increase to $109,032.

Second, this Member would also like to applaud the Appropriations Committee on adopting the Obey amendment to the FHA mortgage limits. This Member would like to thank the distinguished gentleman from Wisconsin [Mr. OBEY] on successfully introducing an

amendment which would redefine the word "area" for the purposes of the metropolitan statistical area. This amendment would in effect allow the median single family house price for an area to be equal to the median single family house price of the county within the area that has the highest such median price. This provision is a step in the right direction in consideration of new home construction costs and in its effect on FHA mortgage limits.

Third, this bill provides $6.0 million, a $1 million increase from the FY 1998 budget, for the Section 184 Indian Housing Loan Guarantee Program which is administered by HUD. According to the Committee Report, this appropriation will be leveraged into at least $36.9 million in loan guarantees. The Section 184 Indian Housing Loan Guarantee program authored by this Member, has already proven to be an excellent program that now is providing privately financed homes through a guarantee program for Indian families who were otherwise unable to secure conventional financing because of the trust status of Indian reservation land.

Fourth, appropriators should be applauded for including $4.7 billion for the Community Development Block Grant (CDBG). This Member would also like to commend enthusiastically the appropriators for decreasing the amount of set-asides within the CDBG from $479 million in FY 1998 to $167 million in FY 1999 for the use of some such funds were not devoted to the most appropriate areas. This Member has testified at the subcommittee level that the expenditure of the maximum amount of CDBG funds should be left to the allocation of the state and eligible local governments as compared to selected set-aside programs.

Mr. Chairman, this Member rises in support of H.R. 4194 and urges his colleagues to support this measure.

Mr. Chairman, I rise today in opposition to the final passage of H.R. 4194, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999. I object because this bill fails to include any funding for the Americorps or other initiatives administered by the Corporation for National Service which are funded annually in this legislation. When coupled with the reduction of more than $5 million in funding for the Volunteers in Service to America (VISTA) program and the freeze in spending for the National Senior Volunteer Corps recommended in the Appropriations Committee's Report on the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act for Fiscal Year 1999, the attack on the highly successful programs administered by the Corporation for National Service included in this bill will decimate opportunities to improve the lives of every American through strong community service initiatives.

Over the years I have met countless activists as well as ordinary American citizens in the Second Congressional District who take heroic steps on a daily basis towards improving their community and their own lives. As a result, the Second Congressional District and my home state of Mississippi have made substantial progress in improving the standard of living for many of their residents. However, both the Second Congressional District and Mississippi still contain some of the poorest areas in the nation.

We must recognize that Mississippi's economic status can never be permanently improved by either ignoring the current state of affairs or by simply writing a check. For too long policy makers here in Washington and elsewhere have followed one of these two courses of action. There have been rare exceptions—initiatives to provide not just economic assistance, but also the inspiration for people to join with their neighbors in the effort to improve their community. As every hard-working American knows, no one labors so well as when he feels that others are willing to stand there beside him and suffer through the task at hand. The Americorps, which is administered by the Corporation for National Service and normally funded in this bill, is perhaps the best example of a program which provides a tangible, uplifting presence in the numerous communities where it is active.

There are more than five hundred Americorps volunteers in Mississippi today who have partnered with community leaders to provide hands-on assistance in improving access to everything from child care to literacy instruction. Most importantly, the Americorps volunteers' stirring example has inspired thousands of Mississippians to enter community service as well. Today there are more than 29,000 people of all ages and backgrounds who are helping to solve problems and build stronger communities in the 48 projects across Mississippi which are sponsored by the Americorps and other Corporation for National Services initiatives.

Many of my colleagues on the other side of the aisle—including some of my friends from Mississippi—will say the Corporation for National Service and the Americorps program are wasteful or too bureaucratic. Yet I do not think any of us could find another initiative funded by the federal or state governments today which encourages 29,000 people to serve their nation and their community for a total cost of less than $7 million.

Nonetheless, many former critics have finally started to see the positive benefits of the Corporation for National Service's work. Governor Kirk Fordice of Mississippi, widely regarded as one of the most conservative governors in the nation, made the following statement in support of the Corporation for National Service's efforts while visiting with Learn and Serve America students at the regional service-learning conference in Biloxi, Mississippi:

As you know from your first hand volunteerism, service-learning offers the opportunity for today's young people and tomorrow's leaders to learn, while addressing local needs. Your hands-on experiences reinforce what you are learning in the classroom, promoting civic responsibility and showing that citizens working together are a powerful force.

After the Americorps was created in 1993, it quickly adopted the straightforward motto of "Getting Things Done." In the opinion of both myself and thousands of residents of the Second Congressional District who have benefited from this program, the Americorps truly has been "Getting Things Done For Mississippi." For those who might doubt the effectiveness or importance of the Corporation for National Service and its Americorps program, the following is a complete list of all the active projects supported by the Corporation for National Service in Mississippi. Instead of making speeches in the marble halls of Washington about bureaucracy, inefficiency, disorganization or a host of other mistaken descriptions of the Americorps and the activities of the Corporation for National Service, I encourage any of my skeptical colleagues to visit these communities and talk with the beneficiaries of its work.

80 AmeriCorps Volunteers participate in the Delta Service Corps University Center for Community in Cleveland;

40 AmeriCorps Volunteers participate in the Delta Reads Partnerships at Delta State University in Cleveland;

6 AmeriCorps Volunteers participate in the Mid-South Delta LISC AmeriCorps in Greenville;

20 AmeriCorps Volunteers participate in the Mississippi Action for Community Education in Greenville;

4 AmeriCorps Volunteers participate in the Harrison County Human Resources Agency in Gulfport;

2 AmeriCorps Volunteers participate in the South Mississippi Family/Child Center in Gulfport;

3 AmeriCorps Volunteers participate in the Desoto County Literacy Council Inc. in Hernando;

100 AmeriCorps Volunteers participate in the Volunteer Assistant Teachers Train to Become Teachers in Jackson;

30 AmeriCorps Volunteers participate in the AmeriCorps Assist Program in Jackson;

30 AmeriCorps Volunteers participate in the Campus Link in Jackson;

34 AmeriCorps Volunteers participate in the Campus Link in Jackson;

30 AmeriCorps Volunteers participate in the Metro Jackson Service Coalition in Jackson;

16 AmeriCorps Volunteers participate in the Partners in Readiness in Jackson;

2 AmeriCorps Volunteers participate in the Big Brothers/Big Sisters of the Tri-County Area in Jackson;

6 AmeriCorps Volunteers participate in the Governor's Office of Literacy in Jackson;

9 AmeriCorps Volunteers participate in the Mississippi Association of Cooperatives in Jackson;

3 AmeriCorps Volunteers participate in the West Jackson Community Development Corporation in Jackson;

7 AmeriCorps Volunteers participate in the St. Andrew's Mission, Inc. in McComb;

39 AmeriCorps Volunteers participate in the Teach for America Mississippi Delta in Oxford;

24 AmeriCorps Volunteers participate in the InterACT in Oxford;

20 AmeriCorps Volunteers participate in the Literacy for Lee County: Young Readers Today in Tupelo;

6 AmeriCorps Volunteers participate in the We Care Community Services, Inc. in Vicksburg;

5 AmeriCorps Volunteers participate in the Yazoo Community Action, Inc. in Yazoo City;

10 Learn and Service America Volunteers participate in the Biloxi School District in Biloxi;

250 Learn and Service America Volunteers participate in Rust College in Holy Springs;

6 Learn and Service America Volunteers participate in the Jackson School District in Jackson;

700 Learn and Service America Volunteers participate in the Mississippi Department of Education statewide;

1,500 Learn and Service America Volunteers participate in the Mississippi Commission for Volunteer Service statewide;

425 National Senior Service Corps Volunteers participate in the Hancock County RSVP in Bay St. Louis;

364 National Senior Service Corps Volunteers participate in the Hancock County Volunteer Program in Clarksdale;

315 National Senior Service Corps Volunteers participate in the Lowndes County RSVP in Columbus;

114 National Senior Service Corps Volunteers participate in the Jones County FGP in Ellisville;

388 National Senior Service Corps Volunteers participate in the Harrison County RSVP in Gulfport;

43 National Senior Service Corps Volunteers participate in the SCP of Harrison County in Gulfport;

72 National Senior Service Corps Volunteers participate in the SCP of Sunflower and Bolivar Counties in Indianola;

285 National Senior Service Corps Volunteers participate in the Capital Areas RSVP in Jackson;

212 National Senior Service Corps Volunteers participate in the Attala County RSVP in Kosciusko;

314 National Senior Service Corps Volunteers participate in the Laurel-Jones County RSVP in Laurel;

186 National Senior Service Corps Volunteers participate in the Simpson County RSVP in Mendenhall;

57 National Senior Service Corps Volunteers participate in the FGP Lauderdale County in Meridan;

519 National Senior Service Corps Volunteers participate in the RSVP Meridan/Lauderdale County in Meridan;

400 National Senior Service Corps Volunteers participate in the RSVP Adams County in Natchez;

84 National Senior Service Corps Volunteers participate in the Lafayette County FGP in Oxford;

280 National Senior Service Corps Volunteers participate in the Lafayette County RSVP in Oxford;

30 National Senior Service Corps Volunteers participate in the MDHS Jackson County SCP in Pascagoula;

370 National Senior Service Corps Volunteers participate in the Lee and Calhoun Counties RSVP in Tupelo;

79 National Senior Service Corps Volunteers participate in the Hinds/Rankin FGP in Whitified.

Mr. Chairman, the people who participant in the programs I have just mentioned want to see genuine change in their community and are willing to take action to bring about results. What better values could any of—Democrats or Republican—want to sponsor?

I urge Members to oppose this bill; we should not be forced for yet another year to rely on the Conference Committee to restore funding for the Americorps and the Corporation for National Service. Let us support the Americorps and Corporation for National Service's volunteers across the nation so they can continue "Getting Things done" in their community.

Mr. ENSIGN. Mr. Chairman, I rise today to voice concern about what I consider an inappropriate use of Community Development Block Grant funding.

Late last year, it was revealed that the Reno-Sparks Indian Colony had decided to use $450,000 of the funding they received from the Indian Community Development Block Grant program for the explicit purpose of constructing a "smoke shop" in Verdi, Nevada. Regardless of one's position on tobacco use or taxes, it seems clear to me that at a time when there is so much debate surrounding the issue of teen smoking, the tobacco industry, and tobacco vendors, taxpayer dollars should not be spent on the construction of smoke shops in our communities.

It is my understanding that the goals of the Community Development Block Grant Program are to provide financial resources to communities for public facilities and planning activities which have a direct, positive impact on the health and safety of that community's residents. Everyone knows that smoking is hazardous to one's health and can cause lung cancer. Smoking causes fully one sixth of all deaths in the United States each year—more than alcohol, all illicit drugs, AIDS, guns, automobiles, and all forms of air pollution COMBINED. With this in mind, how can we possibly allow money intended to be used for the betterment of communities to be used instead for the construction of smoke shops. I would like an explanation from HUD as to how this fits into the statute governing the Community Development Block Grant program.

Native American communities have a right to profit from business ventures but I don't think the federal government should assume the role of helping smoke shops compete with independent small business ventures such as shops and convenience stores which also rely on tobacco sales.

Mr. Chairman, this grant came to my attention only recently and has caused concern for private small businesses and citizens in Verdi, Nevada. It was my desire to introduce an amendment today to recapture these federal dollars before they are spent, but I understand how carefully this bill has been crafted and do not wish to threaten the delicate balance you have achieved.

It is my sincere hope that the Department of Housing and Urban Development will ensure that taxpayer funds are expended in a manner consistent with the national concern on youth tobacco use. There are many ways to ensure that Native Americans are able to develop profitable businesses capable of providing the resources necessary for tribal needs without taxpayer-funded tobacco smoke shops.

Mr. LEWIS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SOLOMON) having assumed the chair, Mr. Combest, 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. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4250, PATIENT PROTECTION ACT OF 1998

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105-643) on the resolution (H.Res. 509) providing for consideration of the bill (H.R. 4250) to provide new patient protections under group health plans, which was referred to the House CALENDAR and ordered to be printed.

PERSONAL EXPLANATION

Mr. GREEN. Mr. Speaker, during rollcall votes 319 through 322, last night and today, I was in my district on official business. Had I been present, I would have voted "no" on rollcall 319; "yes" on rollcall 320; "no" on rollcall 321; and "yes" on rollcall 322.

COMMUNICATION FROM HON. PETER T. KING, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable PETER T. KING, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 14, 1998.

Hon. NEWT GINGRICH,
Speaker of the House,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,

PETER T. KING,
Member of Congress.

COMMUNICATION FROM HON. CAROLYN MCCARTHY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable CAROLYN MCCARTHY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 15, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules

of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,

CAROLYN MCCARTHY,
Member of Congress.

COMMUNICATION FROM HON. GARY L. ACKERMAN, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable GARY L. ACKERMAN, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 16, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,

GARY L. ACKERMAN,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today after 4 p.m., on account of personal business.

Mr. FORD (at the request of Mr. GEPHARDT) for today, on account of personal business.

Mr. MARKEY (at the request of Mr. GEPHARDT) for today and Friday, July 24, on account of a death in the family.

Mr. BRADY (at the request of Mr. GEPHARDT) for today after 1:15 p.m., 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. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. WICKER, for 5 minutes, on July 24.

Mr. WELDON of Pennsylvania, for 5 minutes, on today.

Mr. COLLINS, for 5 minutes, on July 24.

Ms. ROS-LEHTINEN, for 5 minutes each day, on July 28, 29, and 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HASTERT and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $4,235.00.

EXTENSION OF REMARKS

(The following Members (at the request of Mr. KUCINICH) and to include extraneous material:)

Mr. MARKEY.
Mr. KIND.
Ms. DELAURO.
Mr. KUCINICH.
Mr. CONYERS.
Mr. KENNEDY of Rhode Island.
Mr. POSHARD.
Mr. BARCIA.
Ms. LEE.
Mr. DINGELL.
Mr. SANDERS.
Mr. GORDON.
Mr. LEVIN.
Mr. STARK.
Mr. NEAL.
Mr. LAFALCE.
Mr. POMEROY.
Mr. FILNER.
Mr. THOMPSON.
Mr. ROEMER.
Mr. ALLEN.

(The following Members (at the request of Mr. GOSS) and to include extraneous material:)

Mr. RADANOVICH.
Mr. SENSENBRENNER.
Mr. METCALF.
Mr. GANSKE.
Mr. SHAW.
Mr. WATTS of Oklahoma.
Mr. GILMAN.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 16 minutes a.m.), the House adjourned until today, Friday, July 24, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10188. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Pseudomonas Fluorescens Strain PRA-25; Temporary Exemption From the Requirement of a Tolerance [OPP-300681; FRL-6016-7] (RIN: 2070-AB78) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10189. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Extension of Tolerance for Emergency Exemptions [OPP-300682; FRL-6016-8] (RIN: 2070-AB78) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10190. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Fipronil; Pesticide Tolerance [OPP-300612; FRL-5768-3] (RIN: 2070-AB78) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10191. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality [FRL-6123-4] received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10192. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Agricultural Trade Act of 1978 to allow the Commodity Credit Corporation to use unobligated funds for the Export Enhancement Program for certain purposes; to the Committee on Agriculture.

10193. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the Commander of F.E. Warren Air Force Base (AFB), Wyoming has conducted a cost comparison to reduce the cost of operating base supply functions, pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

10194. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Issue and Cancellation of Federal Reserve Bank Capital Stock [Regulation I; Docket No. R-0966] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10195. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Membership of State Banking Institutions in the Federal Reserve System; Miscellaneous Interpretations [Regulation H; Docket No. R-0964] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10196. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Security Procedures [Regulation P; Docket No. R-0965] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10197. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to authorize the provision of grants in homeownership zones; to the Committee on Banking and Financial Services.

10198. A letter from the Acting Director, Office of Management and Budget, transmitting a report to Congress on direct spending or receipts legislation within seven days of enactment; to the Committee on the Budget.

10199. A letter from the Assistant Secretary of Labor for OSHA, Department of Labor, transmitting the Department's final rule—Standards Improvement (Miscellaneous Changes) For General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic [29 CFR Parts 1910 and 1926] received July 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10200. A letter from the Assistant Secretary for Occupational Safety and Health,

Department of Labor, transmitting the Department's final rule— Occupational Exposure to Asbestos (RIN: 1218–AB25) received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10201. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Department of Health and Human Services, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 90F–0142] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10202. A letter from the Acting Director, Regulations Policy and Management Staff, Office of Policy, Department of Health and Human Services, transmitting the Department's final rule—Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers [Docket No. 97F–0305] received July 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10203. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Maintenance Plan Revisions; Ohio [OH 114–1A; FRL–6123–1] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10204. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards [FRL–6123–3] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10205. 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 Missouri [MO 050–1050; FRL–6124–7] received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10206. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Authorization of State Hazardous Waste Management Program Revisions [FRL–6119–9] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10207. A letter from the Secretary, Federal Trade Commission, transmitting the Department's final rule—Trade Regulation Rule Relating To Power Output Claims For Amplifiers Utilized In Home Entertainment Products [16 CFR Part 432] received July 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10208. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rules and Regulations Under the Textile Fiber Products Identification Act [16 CFR Part 303] received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10209. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Interpretation of Section 206(3) of the Investment Advisers Act of 1940 [Release No. IA–1732] received July 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10210. A letter from the Director, Defense Security Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services (Transmittal No. 98–51), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

10211. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–87–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10212. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–58–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10213. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective July 5, 1998, the danger pay allowance for the Great Lakes Region of Africa has been eliminated, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

10214. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective July 5, 1998, the danger pay allowance for Kinshasa has been eliminated, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10215. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting copies of the original report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10216. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Certification of the Water and Sewer Authority's Fiscal Year 1998 Revenue Estimate," pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform and Oversight.

10217. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List; Addition—received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10218. A letter from the Acting Comptroller General, Comptroller General of the United States, transmitting the GAO's monthly listing of new investigations, audits, and evaluations; to the Committee on Government Reform and Oversight.

10219. A letter from the Assistant Secretary, Policy, Management and Budget and Chief Financial Officer, Department of the Interior, transmitting the report on Accountability for 1997; to the Committee on Government Reform and Oversight.

10220. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Annual Management Report of the Federal Deposit Insurance Corportation's 1997 CFOA Report, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

10221. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Revisions to the Freedom of Information Act Regulations [No. 98–26] (RIN: 3069–AA71) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10222. A letter from the Acting Director, Office of Management and Budget, Office of Management and Budget Chief Financial Officers, transmitting the annual report on its 1998 Federal Financial Management Status Report and governmentwide 5-year financial management plan, pursuant to Public Law 101—576, section 301(a) (104 Stat. 2849); to the Committee on Government Reform and Oversight.

10223. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to make the Federal personnel system less encumbered by unnecessary restrictions and paperwork, and for other purposes; to the Committee on Government Reform and Oversight.

10224. A letter from the Secretary of Veterans Affairs, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

10225. A letter from the Secretary, SMITHsonian Institution, transmitting the semiannual report of the SMITHsonian Institution for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

10226. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1997, pursuant to 2 U.S.C. 139; to the Committee on House Oversight.

10227. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

10228. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, transmitting the Bureau's final rule—Implementation of Public Law 104–208, Omnibus Consolidated Appropriations Act of 1997 (96R–034P) [T.D. ATF–401; Ref: Notice No. 862] (RIN: 1512–AB64) received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10229. A letter from the General Counsel, National Science Foundation, transmitting the Foundation's final rule—Antarctic Conservation Act of 1978, Civil Monetary Penalties [45 CFR Part 672] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10230. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace; San Antonio, Kelly AFB, TX [Airspace Docket No. 98–ASW–35] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10231. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Theodore, AL [Airspace Docket No. 98–ASW–39] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10232. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Cameron, LA [Airspace Docket No. 98–ASW–37] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10233. A letter from the General Counsel, Department of Transportation, transmitting

the Department's final rule—Revision of Class E Airspace; Pascagoula, MS [Airspace Docket No. 98–ASW–38] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10234. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Refugio, TX [Airspace Docket No. 98–ASW–34] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10235. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 98–NM–93–AD; Amendment 39–10644; AD 98–14–11] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10236. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes [Docket No. 98–NM–132–AD; Amendment 39–10646; AD 98–14–13] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10237. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 98–NM–123–AD; Amendment 39–10645; AD 98–14–12] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10238. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace, San Diego, North Island NAS, CA [Airspace Docket No. 98–AWP–14] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10239. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Spofford, TX [Airspace Docket No. 98–ASW–21] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10240. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Turbopropeller-Powered McDonnell Douglas Model DC–3 and DC–3C Series Airplanes [Docket No. 97–NM–72–AD; Amendment 39–10647; AD 98–14–14] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10241. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes, and Model F27 Mark 050 Series Airplanes [Docket No. 97–NM–139–AD; amendment 39–10648; AD 98–14–15] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10242. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–400, 757, 767, and 777 Series Airplanes Equipped with AlliedSignal RIA–35B Instrument Landing System Receivers [Docket No. 98–NM–155–AD; Amendment 39–10643; AD 98–14–10] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10243. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Morgan City, LA [Airspace Docket No. 98–ASW–36] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10244. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; JOHNSON City, TX [Airspace Docket No. 98–ASW–33] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10245. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 98–NM–145–AD; Amendment 39–10650; AD 98–14–17] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10246. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Model 767 Series Airplanes [Docket No. 98–NM–95–AD; Amendment 39–10448; AD 98–07–26] (RIN: 2120–AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10247. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Dragon Boat Races, Inner Harbor, Baltimore, Maryland [CGD 05–98–047] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10248. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Virgina is for Lovers Cup Unlimited Hydroplane Races, Willoughby Bay, Norfolk, Virginia [CGD 05–98–045] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10249. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Parker International Waterski Marathon [CGD11–98–001] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10250. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Baptiste Collette Bayou Channel, Mile 11.5, Left Descending Bank, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA 98–009] (RIN: 2115–AA97) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10251. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: Swim Buzzards Bay Day, New Bedford, MA [CGD01–96–015] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10252. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia [CGD 05–98–046] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10253. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Beaufort Channel, Beufort, North Carolina [CGD05–97–080] (RIN: 2115–AE47) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10254. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Ohio River, Mile 461.0–462.0, Cincinnati, OH [CGD08–98–038] (RIN: 2115–AE84) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10255. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation; Winter Harbor Lobster Boat Race, Winter Harbor, ME [CGD01–96–008] (RIN: 2115–AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10256. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Metric Equivalents [Docket PS–153; Amdt. 191–14; 192–85; 193–16; 194–3; 195–63.] (RIN: 2137–AC98) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10257. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection [Docket No. RSPA–97–2362; Amdt. 195–62] (RIN: 2137—AD06) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10258. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; World Series of Power Boat Racing on Mission Bay (formerly known as Thunderboat Regatta) [CGD11–98–009] (RIN: 2115–AE46) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10259. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area: Copper Canyon, Lake Havasu, Colorado River [CGD11–97–010] (RIN: 2115–AE84) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10260. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 Series Airplanes [Docket No. 98–NM–31–AD; Amendment 39–10649; AD 98–14–16] (RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10261. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A, Olympus 593 Series Turbojet Engines [Docket No. 98–ANE–13–AD; Amendment 39–10653; AD 98–15–02]

(RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10262. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines [Docket No. 97–ANE–04; Amendmetn 39–10652; AD 97–25–10 R1] (RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10263. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines [Docket No. 98–ANE–17–AD; Amendment 39–10654; AD 98–15–03] (RIN: 2120–AA64) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10264. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—HUBZone Empowerment Contracting Program [13 CFR Parts 121, 125, and 126] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10265. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule— Veterans Education: Suspension and Discontinuance of Payments (RIN: 2900–AF85) received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10266. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule— Schedule for Rating Disabilities: Cold injuries (RIN: 2900–AI46) received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10267. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Administrative Review Process; Identification and Referral of Cases for Quality Review Under the Appeals Council's Authority to Review Cases on Its Own Motion (RIN: 0960–AE53) received July 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10268. A letter from the Executive Director, Assassination Records Review Board, transmitting official notification that it will cease its operations as of September 30, 1998, pursuant to 44 U.S.C.; jointly to the Committees on the Judiciary, Rules, House Oversight, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIVINGSTON: Committee on Appropriations. Report on the Revised Suballocation of Budget Totals for Fiscal Year 1999 (Rept. 105–642). Referred to the Committee on the Whole House on the State of the Union.

[Filed July 24 (legislative day, July 23), 1998]

Mr. GOSS: Committee on Rules. House Resolution 509. Resolution providing for consideration of the bill (H.R. 4250) to provide new patient protections under group health plans. (Rept. 105–643). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. CHRISTIAN-GREEN:

H.R. 4313. A bill to amend the Revised Organic Act of the Virgin Islands to provide that the number of members on the legislature of the Virgin Islands and the number of such members constituting a quorum shall be determined by the laws of the Virgin Islands; to the Committee on Resources.

By Mr. SHAW (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. RAMSTAD, Mrs. KENNELLY of Connecticut, Mr. HAYWORTH, Mr. LEVIN, Mr. WELLER, Mr. MCDERMOTT, Mr. SKEEN, Mr. KLECZKA, Mr. PORTMAN, Mr. LEWIS of Georgia, Mrs. THURMAN, Mr. CARDIN, and Mr. NEAL of Massachusetts):

H.R. 4314. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Ways and Means.

By Mr. BOSWELL:

H.R. 4315. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Commerce, and in addition to the Committee on 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. ANDREWS:

H.R. 4316. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 4317. A bill to provide for a pilot program for the use of optical memory cards under the Medicare and Medicaid Programs; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 4318. A bill to repeal Executive Order 11478; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 4319. A bill to properly balance the wind and water erosion criteria and the wildlife suitability criteria to be used in the 16th sighnup of land in the conservation reserve program; to the Committee on Agriculture.

By Mr. HANSEN:

H.R. 4320. A bill to adjust the boundaries of the Wasatch-Cache National Forest and Mount Naomi Wilderness in the State of Utah to correct a faulty land survey and to provide for the conveyance of the land that was subject to the faulty survey; to the Committee on Resources.

By Mr. LEACH (for himself, Mr. LAZIO of New York, Mr. CASTLE, Mr. LAFALCE, Mr. HINCHEY, and Mr. VENTO):

H.R. 4321. A bill to protect consumers and financial institutions by preventing personal financial information from being obtained from financial institutions under false pretenses; to the Committee on Banking and Financial Services.

By Mr. OBERSTAR (for himself, Mr. LEACH, Mr. KIND of Wisconsin, Mr. GUTKNECHT, Mr. EVANS, Mr. GEPHARDT, Mr. VENTO, Mr. TALENT, Mr. BOSWELL, Mr. HULSHOF, Mr. MINGE, Mr. SHIMKUS, Mr. LUTHER, Mr. PETRI, Mr. LIPINSKI, Mr. KLUG, and Mr. SABO):

H.R. 4322. A bill to amend the Water Resources Development Act of 1986 concerning management of the upper Mississippi River system, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ROMERO-BARCELO (for himself, Ms. CHRISTIAN-GREEN, Mr. UNDERWOOD, Mr. LAZIO of New York, Mr. PALLONE, Mr. DEUTSCH, Mr. BROWN of Ohio, Mr. RUSH, Mr. THOMPSON, Mr. CLYBURN, Ms. MILLENDER-MCDONALD, Mrs. MEEK of Florida, Mr. TOWNS, Ms. FURSE, Mr. HILLIARD, Ms. KILPATRICK, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MCKINNEY, Mr. PAYNE, Mr. JACKSON, Ms. JACKSON-LEE, Mr. HASTINGS of Florida, Mr. CLAY, Mr. BISHOP, Mr. STOKES, Mr. DAVIS of Illinois, Ms. NORTON, Ms. WATERS, Mr. FAZIO of California, Ms. LEE, Mr. MEEKS of New York, and Mr. ENGEL):

H.R. 4323. A bill to amend titles XIX and XXI of the Social Security Act to give States the option of providing medical assistance to certain legal immigrant children and to increase allotments to territories under the State Children's Health Insurance Program; to the Committee on Commerce.

By Mr. TAUZIN (for himself, Mr. WELLER, Mr. HULSHOF, Mr. COX of California, Mr. ROGAN, Mr. SHIMKUS, Mr. SUNUNU, Mr. GOSS, Mr. WHITFIELD, Mr. SMITH of Michigan, and Mr. LEWIS of Kentucky):

H.R. 4324. A bill to amend the Communications Act of 1934 to reduce telephone rates, provide advanced telecommunications services to schools, libraries, and certain health care facilities, and for other purposes; 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. YOUNG of Alaska:

H.R. 4325. A bill to advance the self-determined management, use, and control of allotted and fractionated trust lands by Indian people; to promote the consolidation of fractionated land interests into viable economic units by the removal of regulatory barriers; and to create and enhance the necessary programs and processes for this purpose; to the Committee on Resources, 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. DAVIS of Virginia (for himself and Ms. NORTON):

H. Con. Res. 305. Concurrent resolution authorizing the use of the Capitol grounds for the American Luge Association Races; to the Committee on Transportation and Infrastructure.

By Mr. BONILLA:

H. Con. Res. 306. Concurrent resolution expressing the sense of Congress that the Government of Costa Rica should take steps to protect the lives of property owners in Costa

Rica, and for other purposes; to the Committee on International Relations.

By Mr. MARKEY:

H. Con. Res. 307. Concurrent resolution expressing the sense of Congress regarding the nuclear weapons stockpile; to the Committee on National Security.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

375. The SPEAKER presented a memorial of the House of Representatives of the State of Maine, relative to H.P. 1568 requesting the President of the United States and the United States Congress to remove the financial assistance necessary to grow the tobacco crop; to the Committee on Agriculture.

376. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 60 memorializing Congress to develop a national energy policy to address the needs of federal, state, and local executive and legislative branch agencies and officials for data and information necessary for them to cope with and plan for the declining production of oil and gas in older fields and in the shallow waters surrounding the United States and the increasing pressures of foreign competition on production and oil and gas refining; to the Committee on Commerce.

377. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Concurrent Resolution No. 123 memorializing the United States Congress and United States Postal Service to take such actions as are necessary to have other options in lieu of relocation considered for the downtown post office in Arcadia, Louisiana; to the Committee on Government Reform and Oversight.

378. Also, a memorial of the House of Representatives of the State of Maine, relative to H.P. 1660 memorializing the important civil rights protections extended by the Fair Housing Amendments Act of 1988 must be preserved; to the Committee on the Judiciary.

379. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 37 memorializing the Congress of the United States to strongly support the House Joint Resolution 78, the Religious Freedom Amendment to the Constitution, and to submit the same to the states for ratification; to the Committee on the Judiciary.

380. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 20 memorializing the Congress of the United States to adopt Senate Joint Resolution 40 and give the flag of our nation lawful protection from willful destruction and desecration; to the Committee on the Judiciary.

381. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Concurrent Resolution No. 101 urging the governor of Louisiana and the governors and legislatures of other states to also communicate to the United States Congress that the business meal is a legitimate expense which must be restored to one hundred percent deductibility; to the Committee on Ways and Means.

382. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 13 memorializing the Congress of the United States to enact H.R. 334, the "Fair Indian Gaming Act," into law; jointly to the Committees on Resources and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 619: Mrs. CAPPS and Mr. BEREUTER.

H.R. 1032: Mr. GILMAN and Ms. ROYBAL-ALLARD.

H.R. 1061: Mr. MCCOLLUM and Mr. TIERNEY.

H.R. 1126: Mr. DAVIS of Florida, Mr. RILEY, Mr. BASS, and Mr. WEYGAND.

H.R. 1202: Mrs. CAPPS and Mr. BEREUTER.

H.R. 1231: Mrs. MEEK of Florida.

H.R. 1321: Mr. FROST.

H.R. 1571: Mr. WAXMAN.

H.R. 1748: Mrs. CAPPS.

H.R. 1975: Ms. LEE.

H.R. 1995: Mr. CANADY of Florida.

H.R. 2072: Mr. BONILLA, Mr. MORAN of Kansas, and Ms. GRANGER.

H.R. 2348: Mr. RIGGS.

H.R. 2349: Mr. RIGGS.

H.R. 2524: Ms. CHRISTIAN-GREEN and Mr. COYNE.

H.R. 2661: Mr. HOBSON and Mr. LUCAS of Oklahoma.

H.R. 2695: Mr. ENGEL.

H.R. 2701: Mr. HILLIARD.

H.R. 2721: Mr. LUCAS of Oklahoma and Mr. DOOLITTE.

H.R. 2821: Mr. LEWIS of Kentucky, Mr. PORTER, and Mr. DEUTSCH.

H.R. 2908: Mr. EVANS and Mr. HILLEARY.

H.R. 3248: Mr. MILLER of Florida.

H.R. 3259: Mr. COYNE.

H.R. 3410: Mr. UPTON.

H.R. 3503: Mr. DEUTSCH, Mrs. MINK of Hawaii, and Ms. CHRISTIAN-GREEN.

H.R. 3553: Mr. LANTOS, Mr. ABERCROMBIE, Mr. FATTAH, Mr. NADLER, Mr. ACKERMAN, Mr. JACKSON of Illinois, Mr. EVANS, Mr. LIPINSKI, Mr. COSTELLO, Mr. KENNEDY of Massachusetts, Mr. GEPHARDT, Mr. MEEHAN, Mr. BARRETT of Wisconsin, Mr. LEWIS of Georgia, Ms. CHRISTIAN-GREEN, Mrs. MINK of Hawaii, Mr. GREEN, Mr. KENNEDY of Rhode Island, Mr. KUCINICH, Mrs. TAUSCHER, Mr. DOOLEY of California, Mr. FARR of California, Ms. LOFGREN, Mr. MEEKS of New York, Mr. CUMMINGS, Mr. CONYERS, Ms. FURSE, Ms. KILPATRICK, Mr. POSHARD, and Mr. MANTON.

H.R. 3622: Mr. REYES, Mr. LAFALCE, Ms. CARSON, Mr. ABERCROMBIE, and Ms. BROWN of Florida.

H.R. 3690: Mr. CRAMER.

H.R. 3702: Mr. SANDLIN.

H.R. 3795: Ms. RIVERS.

H.R. 3844: Mr. HASTERT.

H.R. 3888: Mr. DUNCAN.

H.R. 3900: Mr. HILLIARD.

H.R. 3915: Mr. SABO and Mr. PAYNE.

H.R. 3949: Mr. WELDON of Florida, Mr. SUNUNU, and Mr. SPENCE.

H.R. 4019: Mr. SENSENBRENNER, Mr. COYNE, and Mr. WOLF.

H.R. 4027: Mrs. MINK of Hawaii and Mr. ENGLISH of Pennsylvania.

H.R. 4028: Mrs. THURMAN, Mr. LAMPSON, Ms. FURSE, Mr. MANZULLO, Ms. HOOLEY of Oregon, Mr. BROWN of Ohio, Mr. POSHARD, and Mr. JEFFERSON.

H.R. 4031: Mr. KILDEE, Mr. BONIOR, and Mr. MCDERMOTT.

H.R. 4040: Mr. INGLIS of South Carolina and Mr. SPRATT.

H.R. 4041: Mr. INGLIS of South Carolina and Mr. SPRATT.

H.R. 4042: Mr. INGLIS of South Carolina and Mr. SPRATT.

H.R. 4043: Mr. INGLIS of South Carolina and Mr. SPRATT.

H.R. 4073: Mr. POSHARD, Mr. LUTHER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. FURSE, Mr. MCHALE, Mr. GUTIERREZ, and Mr. TOWNS.

H.R. 4086: Mr. JEFFERSON, Ms. LOFGREN, Mr. MCGOVERN, and Ms. STABENOW.

H.R. 4127: Mrs. MORELLA and Mr. MCINTOSH.

H.R. 4131: Mr. MORAN of Virginia.

H.R. 4136: Mr. ROGERS.

H.R. 4151: Mr. ROTHMAN.

H.R. 4196: Mr. HAYWORTH.

H.R. 4197: Mr. HILL and Mr. HAYWORTH.

H.R. 4228: Mr. CHRISTENSEN and Mr. COBURN.

H.R. 4235: Ms. CHRISTIAN-GREEN.

H.R. 4248: Mr. ENGLISH of Pennsylvania, Mr. LUTHER, and Mr. CALVERT.

H.R. 4258: Mr. LINDER and Mr. DELAY.

H.R. 4283: Mr. YATES, Mr. PORTMAN, Mr. MARKEY, Mr. MCGOVERN, Ms. HOOLEY of Oregon, Mr. BARRETT of Wisconsin, Mr. BONIOR, and Mr. CAMPBELL.

H.R. 4285: Mr. MCCOLLUM.

H.R. 4293: Mr. MCNULTY and Mr. FALEOMAVAEGA.

H.R. 4301: Mrs. THURMAN.

H.R. 4309: Mr. GILMAN, Mr. BONIOR, and Mr. OWENS.

H.J. Res. 123: Mr. ROEMER.

H. Con. Res. 249: Mr. OWENS.

H. Con. Res. 299: Mr. KINGSTON, Mr. SPENCE, Mr. DUNCAN, and Mr. TRAFICANT.

H. Res. 321: Mr. OWENS.

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. 716: Mr. FORBES.

H.R. 3905: Mr. RAHALL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4194

OFFERED BY: MR. HILLEARY

AMENDMENT NO. 32: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. _____. The amounts otherwise provided by this Act are revised by reducing the amount made available for "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—COMMUNITY PLANNING AND DEVELOPMENT—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS", and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—DEPARTMENTAL ADMINISTRATION—GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES", by $21,000,000.

H.R. 4250

OFFERED BY: MR. DINGELL

AMENDMENT NO. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patients' Bill of Rights Act of 1998".

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

Sec. 1. Short title; table of contents.

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Subtitle A—Access to Care

Sec. 101. Access to emergency care.

Sec. 102. Offering of choice of coverage options under group health plans.

Sec. 103. Choice of providers.
Sec. 104. Access to specialty care.
Sec. 105. Continuity of care.
Sec. 106. Coverage for individuals participating in approved clinical trials.
Sec. 107. Access to needed prescription drugs.
Sec. 108. Adequacy of provider network.
Sec. 109. Nondiscrimination in delivery of services.

Subtitle B—Quality Assurance

Sec. 111. Internal quality assurance program.
Sec. 112. Collection of standardized data.
Sec. 113. Process for selection of providers.
Sec. 114. Drug utilization program.
Sec. 115. Standards for utilization review activities.
Sec. 116. Health Care Quality Advisory Board.

Subtitle C—Patient Information

Sec. 121. Patient information.
Sec. 122. Protection of patient confidentiality.
Sec. 123. Health insurance ombudsmen.

Subtitle D—Grievance and Appeals Procedures

Sec. 131. Establishment of grievance process.
Sec. 132. Internal appeals of adverse determinations.
Sec. 133. External appeals of adverse determinations.

Subtitle E—Protecting the Doctor-Patient Relationship

Sec. 141. Prohibition of interference with certain medical communications.
Sec. 142. Prohibition against transfer of indemnification or improper incentive arrangements.
Sec. 143. Additional rules regarding participation of health care professionals.
Sec. 144. Protection for patient advocacy.

Subtitle F—Promoting Good Medical Practice

Sec. 151. Promoting good medical practice.
Sec. 152. Standards relating to benefits for certain breast cancer treatment.
Sec. 153. Standards relating to benefits for reconstructive breast surgery.

Subtitle G—Definitions

Sec. 191. Definitions.
Sec. 192. Preemption; State flexibility; construction.
Sec. 193. Regulations.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. ERISA preemption not to apply to certain actions involving health insurance policyholders.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Amendments to the Internal Revenue Code of 1986.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.

TITLE VI—REVENUE PROVISIONS

Sec. 601. Estate tax technical correction.
Sec. 602. Treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts.

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Subtitle A—Access to Care

SEC. 101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider—

(i) the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider, and

(ii) the plan or issuer pays an amount that is not less than the amount paid to a participating health care provider for the same services; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term "emergency medical condition" means a medical condition 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 to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) if the services are maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection.

SEC. 102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage through more than one health insurance issuer; or

(B) two or more coverage options that differ significantly with respect to the use of participating health care providers or the networks of such providers that are used.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term "point-of-service coverage" means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health

Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. 103. CHOICE OF PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. 104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term "special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. 105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided

within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and

accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage.

Subtitle B—Quality Assurance

SEC. 111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section 112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section 114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least as stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section 121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. 114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section 111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. 115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the

plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section 111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term "health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section 191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(6) REVIEW OF PRELIMINARY UTILIZATION REVIEW DECISION.—Under such program a participant, beneficiary, or enrollee or any provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with a preliminary utilization review decision has the opportunity to discuss the decision with, and have such decision reviewed by, the medical director of the plan or issuer involved (or the director's designee) who has the authority to reverse the decision.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. 116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section 112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care

in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

Subtitle C—Patient Information

SEC. 121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) QUALITY ASSURANCE.—A summary description of the data on quality collected under section 112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section 112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 115, including under any drug formulary program under section 107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section 122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. 122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. 123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

Subtitle D—Grievance and Appeals Procedures

SEC. 131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this title.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section 111(a) of all grievances and appeals relating to quality of care.

SEC. 132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section 133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section 121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term "appealable decision" means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for, a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section 101.

(C) Failure to provide a choice of provider under section 103.

(D) Failure to provide qualified health care providers under section 103.

(E) Failure to provide access to specialty and other care under section 104.

(F) Failure to provide continuation of care under section 105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section 106.

(H) Failure to provide access to needed drugs under section 107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section 109.

(J) An adverse determination under a utilization review program under section 115.

(K) The imposition of a limitation that is prohibited under section 151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, enrollee, or provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section 191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) DEADLINE.—

(A) IN GENERAL.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) EXTENSION.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) NOTICE.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function.

(2) PROCESS.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term "externally appealable decision" means an appealable decision (as defined in section 132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section 132, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the States has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this title shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

Subtitle E—Protecting the Doctor-Patient Relationship

SEC. 141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group

health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term "medical communication" means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term "medical communication" does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. 142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. 143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. 144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established or the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle F—Promoting Good Medical Practice

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term "manner or setting" means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital, Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term "medically necessary or appropriate" means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. 152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING MASTECTOMY OR LYMPH NODE DISSECTION.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

(A) except as provided in paragraph (2)—

(i) restrict benefits for any hospital length of stay in connection with a mastectomy for the treatment of breast cancer to less than 48 hours, or

(ii) restrict benefits for any hospital length of stay in connection with a lymph node dissection for the treatment of breast cancer to less than 24 hours, or

(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the woman involved prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by the attending provider in consultation with the woman or in a case involving a partial mastectomy without lymph node dissection.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

SEC. 153. STANDARDS RELATING TO BENEFITS FOR RECONSTRUCTIVE BREAST SURGERY.

(a) REQUIREMENTS FOR RECONSTRUCTIVE BREAST SURGERY.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for breast surgery in connection with a mastectomy shall provide coverage for reconstructive breast surgery resulting from the mastectomy. Such coverage shall include coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased when reconstruction on the diseased breast is performed and coverage of prostheses and complications of mastectomy including lymphedema.

(2) RECONSTRUCTIVE BREAST SURGERY DEFINED.—In this section, the term "reconstructive breast surgery" means surgery performed as a result of a mastectomy to reestablish symmetry between two breasts, and includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.

(3) MASTECTOMY DEFINED.—In this section, the term "mastectomy" means the surgical removal of all or part of a breast.

(b) PROHIBITIONS.—

(1) DENIAL OF COVERAGE BASED ON COSMETIC SURGERY.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny coverage described in subsection (a)(1) on the basis that the coverage is for cosmetic surgery.

(2) APPLICATION OF SIMILAR PROHIBITIONS.—Paragraphs (2) through (5) of section 152

shall apply under this section in the same manner as they apply with respect to section 152.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary to undergo reconstructive breast surgery.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for mastectomies.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for reconstructive breast surgery under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion may not be greater than such coinsurance or cost-sharing that is otherwise applicable with respect to benefits for mastectomies.

(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage and that requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

Subtitle G—Definitions

SEC. 191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this title under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term "clinical peer" means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term "participating" mean, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. 192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in sections 152 and 153, nothing in this title shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. 193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—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 group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting "(other than section 2706)" after "requirements of such subparts".

SEC. 202. 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.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) 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 such title as if such section applied to such issuer and such issuer were a group health plan.".

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE 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 title I of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act of 1998 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 101 (relating to access to emergency care).

"(B) Section 102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

"(C) Section 103 (relating to choice of providers).

"(D) Section 104 (relating to access to specialty care).

"(E) Section 105(a)(1) (relating to continuity in case of termination of provider contract) and section 105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(F) Section 106 (relating to coverage for individuals participating in approved clinical trials.)

"(G) Section 107 (relating to access to needed prescription drugs).

"(H) Section 108 (relating to adequacy of provider network).

"(I) Subtitle B (relating to quality assurance).

"(J) Section 143 (relating to additional rules regarding participation of health care professionals).

"(K) Section 152 (relating to standards relating to benefits for certain breast cancer treatment).

"(L) Section 153 (relating to standards relating to benefits for reconstructive breast surgery).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections 131 and 132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

"(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 109 (relating to nondiscrimination in delivery of services).

"(B) Section 141 (relating to prohibition of interference with certain medical communications).

"(C) Section 142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

"(D) Section 144 (relating to prohibition on retaliation).

"(E) Section 151 (relating to promoting good medical practice).

"(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 144(b)(1) of the Patients' Bill of Rights Act of 1998, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

"(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 144(b)(1) of the Patients' Bill of Rights Act of 1998 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.".

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "SEC. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle D (and section 115) of title I of the Patients' Bill of Rights Act of 1998 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(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 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 144(b))" after "part 7".

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

"(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

"(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

"(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

"(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

"(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by such employer or other plan sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 1999 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) 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 this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 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. 502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking "this subtitle (and the amendments made by this subtitle and section 401)" and inserting "the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and title I of the Patients' Bill of Rights Act of 1998".

TITLE VI—REVENUE PROVISIONS

SEC. 601. ESTATE TAX TECHNICAL CORRECTION.

(a) IN GENERAL.—Paragraph (2) of section 2001(c) of the Internal Revenue Code of 1986 is amended by striking "$10,000,000" and all that follows and inserting "$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3)) and $359,200."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Taxpayer Relief Act of 1997.

SEC. 602. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.".

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) of such Code is amended by striking "section 332(a)" and inserting "section 332".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

H.R. 4250

OFFERED BY: MR. EVANS

AMENDMENT NO. 3: At the end of the bill add the following new title:

TITLE VII—VETERANS' ACCESS TO EMERGENCY MEDICAL CARE

SEC. 7001. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) CONTRACT CARE.—Section 1703(a)(3) of title 38, United States Code, is amended by inserting "who is enrolled under section 1705 of this title or who is" after "health of a veteran".

(b) DEFINITION OF MEDICAL SERVICES.—Section 1701(6) of such title is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.".

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) of such title is amended—

(1) by striking out "or" before "(D)"; and

(2) by inserting before the semicolon at the end the following: ", or (E) for any medical emergency which poses a serious threat to the life or health of a veteran enrolled under section 1705 of this title".

SEC. 7002. EFFECTIVE DATE.

The amendments made by section 7001 shall apply with respect to care or services provided on or after the date of the enactment of this Act.

H.R. 4276

OFFERED BY: MR. BASS

AMENDMENT NO. 10: Page 25, line 24, after the dollar amount, insert the following: "(increased by $19,500,000)".

Page 26, line 2, after the dollar amount, insert the following: "(increased by $4,500,000)".

Page 51, line 9, after the dollar amount, insert the following: "(decreased by $43,000,000)".

Page 51, line 10, after the dollar amount, insert the following: "(decreased by $43,000,000)".

H.R. 4276

OFFERED BY: MR. HUTCHINSON

AMENDMENT NO. 11: Strike title VIII.

H.R. 4276

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 12: Page 11, line 14, insert "(increased by $2,200,000)" after "$6,699,000".

Page 26, line 17, insert "(decreased by $2,200,000)" after "$2,371,400,000".

Page 28, line 2, insert "(decreased by $2,200,000)" after "$420,000,000".

H.R. 4276

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 13: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available in this Act may be used for the filing of a complaint, or any motion seeking declaratory or injunctive relief pursuant thereto, that challenges any State, local, or tribal law on the grounds that the law is inconsistent with an international commercial agreement, including any trade or investment agreement.

H.R. 4276

OFFERED BY: MRS. MINK OF HAWAII

AMENDMENT NO. 14: Page 12, line 9, insert "(reduced by $2,260,000)" after the 1st dollar figure.

Page 21, line 18 insert "(reduced by $1,260,000)" after the 1st dollar figure.

Page 94, line 16, insert "(increased by $2,260,000)" after the 1st dollar figure.

H.R. 4276

OFFERED BY: MR. ROYCE

AMENDMENT NO. 15: Page 51, line 9, insert "(reduced by $180,200,000)" after "$180,200,000".

Page 51, line 10, insert "(reduced by $43,000,000)" after "$43,000,000".

Page 51, line 12, insert "(reduced by $500,000)" after "$500,000".

H.R. 4276

OFFERED BY: MR. SANDERS

AMENDMENT NO. 16: Page 102, line 3 insert "(increased by $4,000,000)" after the dollar amount.

Page 100, line 13 insert "(decreased by $4,000,000)" after the dollar amount.

H.R. 4276

OFFERED BY: MR. SANDERS

AMENDMENT NO. 17: Page 102, line 3 insert "(increased by $4,000,000)" after the dollar amount.

Page 40, line 8 insert "(decreased by $4,000,000)" after the dollar amount.

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT NO. 18: Page 78, line 19, after "$475,000,000," insert "(decreased by $415,000,000)".

EXTENSIONS OF REMARKS

INTRODUCTION OF NUCLEAR WEAPONS CUSTODIANSHIP RESOLUTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. MARKEY. Mr. Speaker, today I am introducing a resolution to express the Sense of Congress regarding the proper direction of U.S. efforts to maintain the safety and reliability of the nuclear weapons stockpile in the post-Cold War era.

Currently, the Department of Energy's Stockpile Stewardship squanders billions of dollars on facilities to research and design new warheads, and continue nuclear weapons development as if the Cold War had never ended. In doing so, it bolsters nuclear weapons aspirations of other nations who follow our lead, and puts our real security at risk. It is time to stop this wasteful approach and develop a custodianship program more adequately suited to modern needs. The resolution I am introducing today urges DOE to crease its ill-advised stockpile stewardship program and develop a program that is less costly, less provocative, and less likely to spend billions on facilities with little relevance to the safety of the arsenal.

Many experts have suggested that there are alternatives to the Department of Energy's current stockpile stewardship program that can maintain the U.S. nuclear arsenal at a significantly lower cost. None of these alternatives have been seriously considered by DOE. In reality, many of the projects funded under this program are nothing more than a jobs program for nuclear scientists, but a jobs program with serious non-proliferation consequences. Other nations already look to our massive investment into nuclear weapons research and use it to justify their expanding nuclear programs.

To promote the kind of curatorship of the arsenal that is really needed with the end of the Cold War, I am today introducing a resolution which expresses support for a program that protects our national security without being a guise for new weapons programs that will further undermine the already unsteady international nuclear non-proliferation regime. This resolution expresses the Sense of Congress that the nuclear weapons stockpile can be maintained with a program that is far smaller, less expensive, and which does not require the facilities or experiments that are likely to be used for warhead design or development. In addition, the resolution urges the Secretary of Energy to direct the Department of Energy program for custodianship of the nuclear weapons arsenal towards less costly and less provocative methods and to cease the current stockpile stewardship plans of the Departments.

It is my hope that this resolution will serve as a useful vehicle for educating the Congress and the public about the nature of the current stockpile stewardship program and promoting a more informed debate and consideration of less destabilizing and costly alternatives. I urge my colleagues to join in cosponsoring this important resolution.

HAPPY 100TH ANNIVERSARY, ST. VALENTINE'S PARISH—BEAVER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. BARCIA. Mr. Speaker, the stability of one's church is a source of strength for many people. The members of St. Valentine's Parish—Beaver, located in Beaver Township, Michigan, this weekend are celebrating their centennial of being a positive influence in the community.

Prior to 1888, Catholic pioneers who came to Kawkawlin, Michigan, had to travel ten to fifteen miles to St. Joseph Church in Auburn. Father Szulak, a Jesuit missionary from Detroit, began offering monthly services in 1888 at the home of John Nowak. On St. Valentine's Day that year, Bartholomew Zboralski donated five acres of land which were used for a school where church services were also held. Students were taught in both English and Polish. The first teacher at the school was Miss Cecilia Warczynski. Bishop Henry Richter of Detroit then asked Rev. Joseph Lewandowski, the administrator of St. Stanislaus Parish, and his assistant, Father Bieniawski, to attend to the needs of the people of this area. This action resulted in the formal establishment of St. Valentine's Parish—Beaver, 100 years ago.

Since the first official act at St. Valentine's—a baptism on February 14, 1898, the first marriage of John Rozek and Mary Grzegorczyk on September 27, 1898, and the first funeral of Victor Milkowski with burial in the church cemetery in the spring of 1898, this institution has been of great importance to the community.

A new church was built in 1909 during the pastorship of Father John Kaplanowski. The first baptism at the new facility took place on February 4. Lucy Tomczak was baptized just three days after her birth. The first funeral was for Anna Hyrek, who died on August 24 at the age of three. The first wedding was November 22, joining Anthony Solinski and Helen Kukla.

In 1947, Father Joseph Kaminski began the efforts to construct a new school. This modern four room school was completed in the fall of 1948, and is celebrating its own fiftieth anniversary this year as well. Sister Mary Angelica served as the first Principal. A new convent was built in 1959, and with its completion, more room was also available for the expanding needs of the school.

The church has had its own tragic events. A fire in the early 1920's destroyed the altar, which was replaced at a cost of $600. And then on February 22, 1991, the church was hit by a truck, and suffered extensive damage. Repairs this time cost $571,411. Religious celebrations again returned to the parish center until a replacement facility was completed in 1993. In an ironic fashion, while Father Kaminski had celebrated the first mass in the church in 1908, the last mass celebrated before the accident was for the repose of his soul.

Father Richard Ratajczak, the current pastor, is originally from St. Valentine's Parish, having had the good fortune to live through much of its wonderful history. Father Ratajczak also celebrated his 40th anniversary as a priest last month.

Mr. Speaker, St. Valentine's Parish—Beaver has been a wonderful influence for the past 100 years. I urge you and all of our colleagues to join me in wishing the parish many more blessed years to come.

CONGRATULATIONS TO CENTRAL UNION ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Central Union Elementary School. Central Elementary has been honored as a California Distinguished School. The faculty and students of Central Union Elementary exemplify excellence with exceptional student achievement.

Central Union is located in the outskirts of Lemoore, in Kings County. Central Union's heterogeneous groupings, extensive use of active learning projects, and popular extra-curricular programs take full advantage of richly diverse population and provide the students with opportunities to learn and play with children from different cultural, ethnic, linguistic, religious, and socio-economic backgrounds.

Central Union Elementary has over 308 diverse students in grades K–8. The student body is composed of 29% Native American, 4% African American, 28% Hispanic, and 39% White students. Central Union Elementary's motto: "Together, We Achieve" shows a tradition of support for, and pride in, their excellent educational program. Evidence of Central Union's history of quality education is seen in the large participation by parents in school events, traditional celebrations, and programs. 90% of the parents attended their recent parent-teacher conferences; 85% of the parents attended the programs and visited classrooms during Open House and Back to School Night last year.

Central Union Elementary places emphasis on student results. The school's educational

strategies and practices are consistent with this goal. Their content and student performance standards aligned with and are as rigorous as the "Draft Interim Content and Performance Standards." Central Union Elementary has a safe, clean, friendly, orderly, and supportive environment for children. Parents are involved in their children's education and collaborate with staff members to ensure achievement. Parent volunteer records document that over 3,337 hours were volunteered to assist students, programs and special events last year. Volunteer activities included collaborating with staff members in planning and evaluating programs in a shared decision making process, serving as chairs or members of committees, such as safe schools team, SSC, advisories, and supervising field trips, serving at the snack bar, correcting reports, and publishing newsletters.

Mr. Speaker, it is with great honor that I congratulate Central Union Elementary, a California Distinguished School. The students and faculty of this school exemplify a care for the community and a dedication to hard work. I ask my colleagues to join me in wishing Central Union Elementary many more years of success.

KEN STARR SHOULD REPORT: CASE CLOSED

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. LAFALCE. Mr. Speaker, I commend to the attention of our colleagues the following editorial on Independent Counsel Kenneth Starr's investigation which appeared this month in the three "Greater Niagara Newspapers" published in my district in Western New York: The Niagara Gazette (Niagara Falls); The Union Sun & Journal (Lockport); and The Journal-Register (Medina). Among other things, the editorial faults Kenneth Starr for his failure to submit an interim report to Congress, as required by law. If, after three years and $40 million, Mr. Starr has been unable to find any substantial and credible information about possible crimes by the president, the editorial concludes, "Starr's report should start and end with the phrase, 'Case closed.'"

The editorial follows:

WRITE A CLOSING CHAPTER

What has Special Prosecutor Kenneth Starr been up to lately in his $40 million quest to nail President Clinton on charges of being a Democrat? You won't find out from him. The special prosecutor won't deliver an interim report on his publicly funded wild goose chase.

Spokesman Charles Bakaly said Starr will report to Congress only if and when he has "substantial and credible information about possible crimes by the president." It may be a cold day in hell before that happens. Any claim Starr had on credibility expired about three years and $30 million ago.

The obligation to file such a report is written right into the independent counsel law under which Starr was appointed. But there's no time element in the requirement. Oops, it looks as if Starr is riding that loophole into the sunset. His method of choice for reporting apparently is well-orchestrated leaks to the media.

Starr began his quest for a crime to pin on Clinton by investigating "Whitewater," a series of Arkansas land deals the president and Mrs. Clinton were involved in. He found no evidence of criminal wrongdoing by the Clintons.

Attorney General Janet Reno helped Starr turn his attention and the taxpayers' money to an inquiry into the president's relationship with former White House intern Monica Lewinsky. Our question is, does the public need or want to know anything about the president's private affairs or lack thereof? We say no. It's Hillary Rodham Clinton's call on whether to investigate such matters, and questions about marital fidelity are best handled by private, not public investigators.

It's long past time for the American public to refuse to pay for Starr's attack dogs to nip at Clinton's heels. The special prosecutor role has become an excuse to find some dirt on a president the opposition political party wishes hadn't been elected. Get over it.

If there's no substantial and credible information by now, Starr's report should start and end with the phrase, "Case closed."

IN RECOGNITION OF PAUL E. GOULDING

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, in last month's Financial Executive magazine a featured interview with Paul E. Goulding, a management consultant to businesses large and small, focused on procurement of Federal contracts. Mr. Goulding, who is a constituent of mine and an expert in procurement issues, has had broad experience in the field of government contracting in a long distinguished career that includes senior executive positions in Federal service as well as the private sector.

As an Administrative Assistant to Senator Claiborne Pell, he worked closely with Rhode Island businesses, advising and assisting them in obtaining Federal contracts. While Deputy and Acting Administrator of the General Services Administration in 1979 and 1980, he developed an 8 point program to cut operating costs at GSA. And as a Professional Staff member of the Senate Committee on Rules and Administration, he conducted the first comprehensive study of the Senate's major operations, including how to improve its procurement procedures.

Mr. Goulding has, in fact, played active roles as advocate, administrator, and advisor in the government procurement process. First, as a congressional staff member in assisting the business community in our state of Rhode Island. Secondly, as head of the largest non-defense agency buying goods and services for the government. Lastly, as a consultant to major international corporations as well as to small businesses.

Mr. Speaker, I respectfully submit this interview to be included in the RECORD as part of my remarks. Mr. Goulding has offered some worthwhile and common sense advice for companies who are seeking to do business with the Federal government:

[From FEI News, May/June 1998]

Q&A: MAKING UNCLE SAM YOUR CUSTOMER

Financial Executive recently interviewed Paul E. Goulding, a Washington, D.C.-based consultant and expert in the arcane art of government procurement.

Q: Your firm has helped clients obtain more than $30 billion in government contracts during the last 10 years, companies like AT&T and Hewlett Packard. Do large companies have a big advantage when it comes to selling to Uncle Sam?

PEG: While you might assume they would, my experience indicates that isn't the case. For instance, some big companies get involved in bidding on major contracts and find they are lost because their marketing people, who want to make the sale, are saying one thing while their government relations people have an entirely different view of what should be submitted in the bid.

A dilemma for top management?

PEG: Exactly. Some small niche companies, on the other hand, know exactly what their market is and how best to sell to it. Each case is different and there is no cookie-cutter formula. I keep an open mind and try to evaluate each situation as I see it.

Although small and medium-sized firms frequently need more help steering through the process, they are often more successful than larger companies because they tend to be more flexible and less bureaucratic when faced with complex challenges.

Why should firms of any size bother to do business with the U.S. government given all the red tape involved?

PEG: When I hear that question, I tell the story of the businessman who buys a hardware store after moving to a small town. He asks his new employees who the biggest hardware customer in town is. He is surprised to learn that the customer isn't doing business with his store. When the owner asks why not, his employees say the customer is difficult to do business with and requires that a lot of forms be filled out. I point out that same customer is probably very wealthy, doesn't bounce his checks and usually does repeat business when satisfied. That's the type of customer the federal government can be.

Just how big a customer is the U.S. government?

PEG: The U.S. government buys goods and services valued at over $200 billion. That makes Uncle Sam the biggest customer in the world. And it's not just the dollar figure that's large, but the number of individual acquisitions. According to the GSA Procurement Data Center, over 20 million individual contract actions are processed every year.

Now that we're in a global economy and even small businesses are entering the overseas export market, and given all the problems in dealing with tariffs, quotas, foreign currency exchange, international letters of credit and shipping, it doesn't make sense for U.S. companies to fail to maximize their U.S. government business, which is right on their doorstep.

What would you advise firms that want to do business with the government?

PEG: It will require an investment of time, money and resources. Starting a relationship with the government is very similar to a company entering a new market overseas. The company has to make a commitment to the market. Sometimes companies will ask me why they can't just go after one contract and see how they do. Well, that system is just about as effective as the guy who goes to the race track and bets on one race to see if he's going to win that day.

Like any start-up marketing effort, the company has to be willing to allocate manpower and resources to help develop their government business.

What would you advise a company that already does some business with the government?

PEG: I would first ask what percentage of the domestic U.S. market the firm services. If you answer 10 percent, then I would ask what percentage of the government market for your product you control. If the answer is 5 percent, then at the very least you need to double your government sales.

What else do you tell a new client looking to grab government business?

PEG: I explain how often doing business with the government is the reverse of doing business in the private sector. Before you can make a government sale, in many instances you must do considerable research to find out how the government buys your product or service, who buys it, where they buy it and, often overlooked, when they buy it. Also, the government sometimes changes the rules or methods by which it procures goods and services.

If you take the time and trouble to learn the system, you can figure it out.

Why do companies turn to consultants like yourself to help them?

PEG: The principal reason is that it's more efficient. It is less time consuming and, in the final analysis, less expensive to involve qualified people on your team.

Is doing business in Washington different from doing business in, say, Cleveland?

PEG: It certainly is. It's important for corporate leaders to make a commitment of time and effort to learn the business practices here, which are often different from those in the private sector. At the same time, a similar commitment has to be made to develop long-term political and social relationships with the leading players on Capitol Hill and in the bureaucracy. Success in Washington absolutely requires both.

THANK YOU TO PATTON LANE FOR SERVICE ON MY STAFF

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. GORDON. Mr. Speaker, at the end of this month, Mr. Joe Patton Lane III will leave my office to enter the School of Law at Roger Williams University in Rhode Island.

Patton has been a loyal and effective member of my congressional staff for the past three years. However, I have known Patton for over a decade. As a college student, he assisted with my re-election campaigns. My then-campaign manager made the statement, "Come election time, I wish I had fifteen Patton Lanes working for me!"

In a congressional personal staff office, there are thousands of demands made on hundreds of issues. Success in this environment requires attention to detail and conscientiousness. These are Patton's strengths. He has been a hard-working, dedicated employee.

Patton is part of a rare breed, one of which should be required in each congressional office. A native of Carthage, Tennessee, he knows every town, every zip code, and most of the elected officials in Middle Tennessee. He is well-regarded by his co-workers and is recognized as someone who willingly undertakes any assignment without complaint.

Patton is from a long line of attorneys recognized in the state of Tennessee for their competence and ability. With his commitment to public service and his abilities, I am confident he will do well in his new endeavor.

It has been a pleasure to have Patton serve in my office and I join my staff in wishing him the best of fortune in his new undertaking.

TRIBUTE TO THE LATE CARL HENRY SMITH, SR.

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. BARCIA. Mr. Speaker, our nation's history is filled with stories of individuals who loved their nation, worked for their communities, led lives of professional accomplishment, and did all of this while remembering the importance of their families, offering love, support and a strong example for their children and grandchildren. I am proud to be able to relay another impressive life story to our colleagues: that of Carl Henry Smith, Sr., of Bay City, Michigan, who would have celebrated his 100th birthday on July 9.

Carl Henry Smith, Sr., was born in to Peter and Molly Smith on July 9, 1898. He was their fifth child. The family worked hard on their farm, and that spirit of hard work stayed with Carl throughout his life. He graduated at the top of his class at Western High School in 1915, and then enlisted in the Michigan National Guard. His military service included time with the Second Michigan Ambulance Company during difficulties with Mexico at El Paso, Texas, and then saw his unit federalized into the United States Army in 1917. He served in France during World War I, and lost his left arm on August 29, 1918, at Soissions Juvigney. For his courage and bravery in caring for the wounded even though seriously injured himself, he was awarded the French Croix de Guerre with Silver Star and the Purple Heart. He met his eventual first wife, Jane, who was a Red Cross worker at Walter Reed Hospital here in Washington. She passed away in 1945.

After the military, he attended the University of Michigan, earning his law degree and being elected to the Board of Editorial Assistance for the Law Review. He was a member of the last graduating class of Lane Hall, Michigan Law School, before going on to service as the Bay City assistant prosecuting attorney, the Bay City prosecuting attorney, Probate Judge of Bay County, and Circuit Judge of Bay County. He continued his education, earning his doctorate of laws in 1950. He also served as the 15th President of the State Bar of Michigan—a post later earned by his son Carl H. Smith, Jr.

Carl Henry Smith supported his fellow veterans, being the only State Commander of the American Legion elected without opposition, unanimously, on the first ballot. He was a member of the First Presbyterian Church, the Elks, the Red Cross, and a Trustee of Alma College. He was also a prominent member of the Bay County Republican Party.

He remarried in 1957, but then himself died from a stroke in 1961. His wife Caryl Jane Smith currently lives in Rochester Hills, Michigan. His sons Richard and Carl, Jr., and his daughter Elisabeth and their families live in Bay City. His grandson, Dr. Peter D. Smith, is the individual who brought Carl Henry Smith to my attention, telling me that his grandfather was his "best friend" and taught him the "spirit of family."

Mr. Speaker, when we want to know of the importance of family, let us think of individuals like Carl Henry Smith, Sr., who earned so much love that his family wants to celebrate what would have been his centennial by reminding us of what this great man did. If only there were more people like him.

CONGRATULATIONS TO GETTYSBURG ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thrusday, July 23, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Clovis Unified's Gettysburg Elementary School for being nominated as a "California Distinguished School" and for achieving the "Clovis Distinguished School Award." Gettysburg Elementary has educated students with great success over the years and has served as a tremendous catalyst to the community. The faculty and students of Gettysburg Elementary exemplify excellence in student achievement and are very deserving of this recognition.

Gettysburg Elementary School is located 10 miles east of Fresno in the heart of the San Joaquin Valley. The school has a student population of 691 students in Kindergarten through grade Six. The school has students who range from the middle to lower-middle class socio-economically, with actively involved parents that provide the critical link between the school and home.

The foundation of Gettysburg Elementary School lies within the concept of being a community-centered school. Gettysburg enjoys an unusually high degree of volunteering and support from community based businesses. In the 1997–98 school year approximately 275 parents volunteered their time as classroom helpers and in the library. In a combined effort with teachers, students, parents and the community Gettysburg was recognized as a National Exemplary Safe and Drug Free School.

Gettysburg prepares all students for the challenges of the 21st century by developing confidence and skills in critical thinking through participation in a wide range of goal oriented experiences. Gettysburg School's Administration concept of education is to nurture the whole child and is emphasized through focusing on development of each child's mind, body, and spirit. Each student participates with both parents and teachers in the "Goal Sharing Programs," where they set both academic and behavioral goals. As a result, Gettysburg Elementary School was elected as a model

program by Phi Delta Kappa and received the "Award for Value and Character Education."

In the 1997–98 school year, the students achieved superior academic scores in reading, language, and mathematics on the California Assessment Tests. Gettysburg maintained an average daily attendance of 99.78% last school year.

Mr. Speaker, I rise today to congratulate Clovis Unified School District's Gettysburg Elementary School for being nominated as a "California Distinguished School." I applaud both the school and the community for their commitment to their children's lives. I ask my colleagues to join me in wishing Gettysburg Elementary School many years of success.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes:

Mr. BLUMENAUER. Mr. Chairman, last night the House voted on Mr. PARKER of Mississippi's amendment No. 18 to strike certain provisions of the Interior Appropriations bill, H.R. 4193. These provisions direct the Indian Health Service to allocate contract support costs funding on a pro rata basis to all tribal contractors. I voted against that amendment in error. Removal of this provision is vitally important to the Tribes in my district and throughout the Northwest which are working to identify thoughtful, participatory solutions to an inadequate system of health care provision. I wish the record to reflect my support for the Parker amendment and the tribal self-determination it encourages.

ZLAN, LTD. DEVELOPS MAJOR ADVANCEMENT IN ELECTRICAL FIRE SAFETY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. HALL of Texas. Mr. Speaker, one of the new high-tech firms in my district, Zlan, Ltd. of Wylie, TX, has come up with an affordable solution to a major cause of the loss of life and property in this country: electrical fires. Each year thousands of people die or are seriously injured and billions of dollars of property is destroyed because of electrical fires. I am told that Zlan's technology, properly installed in the home, can improve electrical fire safety by as much as one-hundred fold, dramatically reducing electrical fires.

This is not a new problem. As early as 1978, the House Interstate and Foreign Commerce Committee's Oversight and Investigations Subcommittee found that ". . . often the dangerous malfunctions of these systems, which may lead to fire, takes place behind the walls of one's home over a period of time and finally fire erupts without warning. . . . (I)t is essential that industry and government work together to find a solution to this problem."

In 1994 the Consumer Product Safety Commission (CPSC) asked Underwriters Laboratories (UL) to identify new technology products for reducing residential electrical fires. George A. Spencer, who is Zlan's founder and CEO, invented an electronic circuit breaker and has spent many years developing and improving this technology. Zlan, Ltd. began demonstrating prototypes of its Digitally Enhanced Circuit Breaker®, to the CPSC and UL. CPSC has indicated substantial interest in this technology.

Last spring Spencer and the Zlan team presented to the CPSC staff an update of their electronic circuit breaker technology designed to detect arcing faults. Key features include:

Microprocessor controller for state of the art technology.

Arc detection to analyze low and high current problems in wiring.

False trip protection for routine power surges, i.e., motor start-ups, etc.

Auto self-test plus manual test capability.

LED status light for performance assurance and fault identification.

Serial Port options for remote monitoring, test and remote trip capability.

Zlan's Load Center Monitor works with the Digitally Enhanced Circuit Breakers to provide audible and visual indicators of faults, store performance data, identify causes of electrical malfunctions as well as communication capabilities to monitor electrical systems.

Zlan has entered into an agreement with STMicroelectronics, Inc. (ST) to manufacture a custom chip-set using Zlan's Arc Fault Interrupter (AFCI) technology that will provide a low cost solution to the circuit breakers manufacturers. Most homes can be upgraded to the new AFCI circuit breaker at a cost estimated to be as low as $800.

This major advancement in electrical fire safety is expected to be on the market in time to meet new electrical building codes now being drafted.

Innovative use of new technology to improve flawed and dated technology has always been the hallmark of American ingenuity. I am extraordinarily pleased that the creative minds at Zlan have chosen to locate and build their business in my district to advance a promising technology that can save lives and give families the opportunity to make their homes safer places to live.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

Mr. BALLENGER. Mr. Speaker, once again, legislation to overturn our current trade relations with the People's Republic of China has reached the House floor. This annual exercise divides our nation over our relationship with the most populous nation in the world. The only thing which has changed is the terminology. We now refer to Most Favored Nation (MFN) trading status as simply Normal Trade Relations (NTR), a more accurate description of this annual trade vote.

I will reluctantly vote against the resolution, Disapproving the Extension of Nondiscriminatory Treatment to the Products of the People's Republic of China (H.J. Res. 121), before us toady. I do recognize China's deplorable record on human rights and our moral obligation to speak out for the weak and voiceless in China. However, in reaching my decision, I again asked myself these questions, "In the long run, will revoking China's trade status be good or harmful to the Chinese and the American people, and will it improve human rights in China?" I must conclude that revoking China's trade status would be counterproductive to these objectives.

As I have stated previously, the U.S. can do more to advance the cause of human rights and foster religious, economic and political freedom if we continue to engage the Chinese in economic cooperation. Social freedom—like freedom of religion—are a direct result of economic liberalization. If we remove all of China's trade privileges, we are not only isolating that country, but we are losing any opportunity to improve the human condition there.

Terminating normal trade relations with China will hurt the American worker and consumer as well. From 1991 to 1997, U.S. exports to China rose 71% from $7.5 billion to $12.8 billion. In addition, exports of U.S. goods and services to China and Hong Kong support an estimated 450,000 American jobs. From an agricultural perspective, the American Farm Bureau has called China "the most important growth market for U.S. agriculture in the twenty-first century." The United States Department of Agriculture estimates that China could account for one-third of future growth in u.S. farm exports in the years ahead.

Despite my position on NTR with China, I remain concerned about allegations that the Clinton White House violated existing campaign finance laws by accepting illegal foreign contributions from China. In return, the Clinton administration sacrificed American national security by allowing the Loral Space and Communications Ltd. and another U.S. company to provide China's space industry with specific technological expertise, strengthening its nuclear and missile capabilities. I believe the Congress has an obligation to look into these critical charges, and I support all efforts to continue House and Senate investigations.

In conclusion, if we choose to cut off our ties with China, we end up harming those who need our help the most—the Chinese people. Just as important, we hurt American workers, farmers and businesses which would export to china, now and in the future. I urge my colleagues to vote down H.J. Res. 121.

IN HONOR OF PUERTO RICO ON ITS CONSTITUTION DAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor the citizens of Puerto Rico on Constitution Day, July 24, 1998. The people of Puerto Rico established the Constitution of the Commonwealth of Puerto Rico for the very same reasons our forefathers wrote the Constitution of the United States of America, to establish themselves as a democracy.

The Puerto Rican Constitution ensures basic welfare and human rights for the people, ensconces the idea of a government which reflects the will of the people, and pays tribute and loyalty to the Constitution of the United States of America.

The Puerto Rican culture is a distinctly unique culture. By pledging allegiance to the Constitution of the United States of America, the people of Puerto Rico celebrate shared beliefs and the co-existence of both cultures. By ratifying their own Constitution, the people of Puerto Rico retain and honor their original heritage while expressing the desire to pursue democracy and happiness for themselves.

Mr. Speaker, I would like to recognize the following individuals for their contributions to the Greater Cleveland community. Dr. Milagros Acevedo Cruz, Michelle Melendez, Mario Ortiz, David Plata, Raquel Santiago, Lydia Esparra, Orlando Salinas, Ana Garcia, Yolanda Perdomo, and Jundy Caraballo. I hope that my fellow colleagues will join me in honoring these individuals and praising the Puerto Rican people as they celebrate Constitution Day.

IN RECOGNITION OF KATHLEEN S. BLACKMAR

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to bring to your attention the recognition of a Warren post office employee who was recently recognized as the Federal Employee of the Year in Rhode Island. Kathleen S. Blackmar was honored at the 27th annual awards ceremony held at the BankBoston Operations Center in East Providence by the Federal Executive Council of Rhode Island. She was nominated for the award by Warren postmaster Erick B. Lawson.

Kathy has become known as a very valuable asset to the Warren post office. In her job as custodian, she is responsible for making building repairs, performing janitorial duties, and assisting customers with lost or broken post office box keys. Her fellow workers share the belief that she has a work ethic that cannot be identified by level of job title. She has educated herself about boiler repair and diagnosis and she makes minor repairs to the office's fleet of vehicles. On top of this, Ms. Blackmar maintains and landscapes the grounds and clears snow. She readily has given her time to serve as coordinator for the Combined Federal Campaign, the annual drive for the contribution to community organizations. She has also coordinated the post office's Toys for Tots campaign and the annual "Christmas Wish List."

I am proud to recognize Kathleen Blackmar as an outstanding individual and to commend her for her contribution to public service.

30TH ANNIVERSARY OF LOCKPORT HIGH SCHOOL 100-MILE RELAY RECORD

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. LAFALCE. Mr. Speaker, I would like to call to the attention of our colleagues the 30th anniversary of an extraordinary high school track and field record that still stands today. In June, 1968, eight members of Lockport Senior High School in Lockport, New York ran the 100-mile relay in a time of seven hours, 27 minutes and 53.6 seconds. This mark beat the previous New York State record by a full nine minutes. It is also an astonishing 26 minutes 36.5 seconds faster than the existing world record as listed in the Guinness Book of Records. And that so-called world record involved 100 runners—not eight.

Members of the record-setting relay team, led by Coach John Chew, were Jim Rycyna, Charlie Quagliano, Bob Brown, Brian Brooks, Jeff Helshoff, Frank Pfeil, George Bickford, and Jeff Watkins. Each of these student-athletes ran 12½ miles in spurts of 110 yards, 220 yards, and 440 yards. The overall average time was less than four minutes and 30 seconds per mile.

Mr. Speaker, the State of New York recently passed a resolution congratulating the 1968 Lockport High School relay team, and the Mayor of Lockport issued a proclamation commending their achievement. I too am pleased to recognize these eight men on the occasion of the 30th anniversary of their 100-mile relay record, and ask all Members to join me in congratulating them as they reunite this month to celebrate their tremendous athletic performance.

OUR WAR ON DRUGS BEST WEAPON: GOOD PERSONNEL—HELP, DON'T HINDER, OUR CUSTOMS EMPLOYEES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. FILNER. Mr. Speaker, this morning, I had the honor and privilege to speak to the National Treasury Employees Union and other national law enforcement groups. I outlined the successes that Customs employees have had in our War on Drugs and spoke of my opposition to H.R. 3809, which would undermine that success.

In my own district, Robert Hood, a Customs inspector, is considered one of the "Best of the West" in Operation Brass Ring, a concerted effort to increase drug seizures among all agencies policing the border. From February through June of this year, Robert lead the San Diego region in drug interdiction, seizing more than 8,745 pounds of marijuana and 11 pounds of methamphetamine. Robert Hood is joined by other heroes—in the San Diego Customs area, the valiant men and women policing the border have been responsible for nearly tripling the amount of cocaine and methamphetamine seized, while the number of seizures of marijuana have nearly doubled.

In just the past six months, Customs personnel have made an incredible impact on the amount of drugs getting to our streets and into our children's pockets! That is why the Fraternal Order of Police, the National Association of Police Organizations, and the Border Patrol Council, among others, join me in opposing H.R. 3809 and asking those who support it, "What could you be thinking?"

The bill undermines the partnership that has flourished between Customs personnel and their managers in the successful drug interdiction efforts. it would restrict employees' rights to have significant input on safety issues—and it would cut their pay. How does cutting Custom's employees' pay for working their regular night shifts help to bolster our War on Drugs? I simply don't understand it.

I support the provisions in H.R. 3809 that boost 1999 funding for Customs, and I urge the Senate and the President to also support an increase in Customs funding, while rejecting the provisions that cut Customs personnel negotiating rights and their hazard pay for essential nighttime shifts.

H.R. 3809 gives us tools to fight the War on Drugs, but puts those who will use the tools in straightjackets. We will lose the War on Drugs and waste taxpayers' money if we spend money on expensive, cutting-edge equipment at the same time we undermine employee morale and labor standards.

Listen to the partners in the War on Drugs—police officers know they cannot win the war if Customs efforts to keep drugs from entering the country are thwarted. I support the frontline soldiers in the War on Drugs—our Customs personnel—and urge support only for legislation that enhances, rather than detracts, from their good work.

IN HONOR OF DR. MARGARET STORTZ AND REV. VICTOR POSTOLAKI, MINISTERS OF THE FIRST CHURCH OF RELIGIOUS SCIENCE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Ms. LEE. Mr. Speaker, it is with honor that I share with you the accomplishments and religious commitment of Dr. Margaret Stortz and Rev. Victor Postolaki, who will be honored by the First Church Religious Science on Sunday, July 26 in Oakland, California.

Dr. Stortz will be stepping down as senior minister after 14 years and Rev. Postolaki, as

assistant minister after 12 years of service. As ministers each has provided guidance and support to its congregants and the residents of Oakland and the East Bay.

As leaders of First Church, they encouraged community outreach on an economic level and have generated monies to assist the survivors of the 1989 Loma Prieta Earthquake, the Oakland Firestorm. Their fund-raising efforts such as the "Love Project" in conjunction with Allen Temple Baptist Church assisted in the rebuilding of the Black churches burned in the south, the North Dakota Flood, and the Mexico Earthquake. They have, through the church volunteer programs, arrange for the creation and distribution of grocery baskets and food vouchers for numerous economically disadvantaged families and organizations servicing this constituency.

They worked with Bay Area Ministries to make Oakland a better community for all its residents. Both were concerned about youth and were actively involved in programs that educated our children specially the teen empowering program serving the East Bay.

Dr. Stortz served as Assistant Minister in 1981 and as the senior minister since 1984. In 1983, she was elected President of the Northern California United Church of Religious Science. Over the years Dr. Stortz held numerous offices within the United Church of Religious Science organization as member of the International Board of Trustees and the President of the United Church of Religious Science.

Besides her ministerial duties she is an author and has an extensive list of works. Her written works include Start Living Every Day of Your Life, How to Enjoy Life and Flight into Life. She has produced *Seven Spiritual Laws of Success* based on Deepak Chopra's Book of the *You Prosper, We Prosper*—a 10-day prosperity meditation series, and *Here's to Your Health*—a 10-day health meditation series. She has written articles for the *Oakland Tribune* regarding the local clergy. Dr. Stortz served as a member of the Oakland Police and Clergy Together, and trained numerous assistant ministers.

Rev. Postolaki, originally from Romania, prior to coming to First Church, served the Santa Rosa Church, both as a Practitioner and as an Assistant Minister. In 1986 he became the assistant minister at First Church of Religious Science, Oakland. He conducted weekly circles of Prayer and headed the Pastoral Care.

Rev. Postolaki has brought his spiritual strength, his creativity, and his artistic talents to First Church. He created unique banners reflecting the world's religious beliefs and "The Season for Non-Violence" banner honoring the anniversaries of the deaths of Mahatma Gandhi and Dr. Martin Luther King, Jr.

Dr. Stortz and Rev. Postolaki have been pillars whose commitment has established First Church as a fifty-year-old Oakland spiritual institution.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes:

Mr. KUCINICH. Mr. Chairman, I rise in opposition to the amendment by Mr. PAXTON to the bill being discussed on campaign finance reform. This amendment would require labor unions to report all financial activities under current labor laws by categories, such as organizing activities and strike activities and political activities. The amendment further requires that reports be posted on the Internet.

These provisions single out unions for special treatment. They would impose expensive, burdensome regulations upon the organizations that represent working people. Companies are not subject to such treatment. This would further tilt the political playing field towards corporations and against working families.

The amendment imposes a substantial accounting burden on union members. It is the responsibility of the Department of Labor to determine the appropriate level of accounting that is needed to fulfill the requirements of American labor laws. This measure amounts to harassment and discrimination against labor unions.

Also, Mr. Chairman, this amendment is clearly a "poison pill." It is part of a continuing effort to load up the major, bipartisan campaign finance reform proposal with provisions that will drive away certain categories of supporters. The attempt is NOT to further campaign finance reform for the good of the American people. The purpose is to obstruct the process. I therefore urge my colleagues to defeat this destructive amendment.

FUNDING OF THE NEA AND CENSORSHIP

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SANDERS. Mr. Speaker, I would like to have printed in the RECORD statements by high school students from my home State of Vermont, who were speaking at my recent town meeting on issues facing young people today.

FUNDING OF THE NEA AND CENSORSHIP

(By Daniel Luzer)

There has been a great deal of controversy lately about the National Endowment for the Arts. The Supreme Court is expected to rule in July in the case of National Endowment for the Arts versus Finley to decide if the federal law requiring the head of the Endowment to consider general standards of decency and respect for the diverse beliefs and views of the American public when considering whether or not to award a grant. In Congress last month, Senator John Ashcroft, together with Senator Jesse Helms, attempted, in an appropriations bill, to kill the endowment program entirely.

From the beginning, the National Endowment for the Arts has been a controversial program. Certainly the endowment is a valuable program. Before 1965, when the endowment was instituted, the arts were, to a great extent, still on the fringes of society and accessible only to the cultural elite. Since then, the arts have expanded greatly, and are now accessible to the masses and have thus begun to educate the majority, which was the point.

In the words of Maryanne Peters, the President of the Board of Directors of the National Campaign for Freedom of Expression, "In creating the NEA, Congress recognized that the arts are integral to fostering imaginative thinking in our culture." In the 33 years which the National Endowment for the Arts has existed, the role of art in our culture has greatly increased. One of the main contributions that the Endowment has made to our culture is to expand the American art world from a largely market-driven world to a system which allows artists to explore and to expose communities to new creative fields, without having to worry about how to purchase materials, or even purchase food.

It is important to remember, though, that money from the National Endowment for the Arts is a prize, bestowed upon artists whose work is either exceptionally good or greatly needed in a given community. Artists who receive money from the Endowment are singled out for the content of the work. Organizations like National Campaign for Freedom of Expression would like us to believe that the law requiring the head of the Endowment to consider standards of decency when awarding grants amounts to a violation of the rights to free speech.

This line of reasoning is flawed, however, in that The First Amendment to the Constitution states that "Congress shall make no law restricting freedom of speech." The fact of the matter is that the above-mentioned law is not a law restricting freedom of speech. The National Endowment for the Arts is not an organization which punishes artists for poor quality work; it is an organization which awards prizes to artists of first quality.

The law simply requires potential grantgivers to consider decency with respect to art. The law does not restrict the freedom to speak in any way, since no artist is restricted from anything; they will simply find it slightly more difficult to receive federal money for offensive work, which seems a logical and acceptable state for an artist to be in. So the law is not unconstitutional.

That being said, the other issue that artists and artists' groups have brought up is the law's potentially harmful vagueness, which could lead to arbitrary and dangerous selection and rejection of an artist's work, which is absurd in a federal program, where standards are needed in order to determine an artistic piece's relevance in relation to the policies and purpose of the National Endowment for the Arts.

This is certainly a legitimate concern, and one which needs to be addressed in order for the National Endowment for the Arts to continue to function in a manner that benefits society. What the National Endowment for

the Arts needs to continue in a way that benefits America are clearer laws and a stricter codification of the grant system. In this way, artists can be granted money based on whether and where their work is needed. If a given community was seriously lacking in, say, quality theater, then playwrights could be sent, with NEA grants, to the said community.

To a certain extent, the National Endowment for the Arts already works in this manner. However, greater clarity on this issue would lead to a better relationship between the art and political communities, which would decrease artists' frustration and improve the quality of the overall art program in the United States.

This plan does, to a certain extent, lead to discrimination against certain forms of art. While that is unfortunate, there is no way that the United States government could ever equally support all forms of art. But that was never the purpose of the National Endowment for the Arts. Another objection that could be raised for this plan for greater codification of the endowments program is that placing restrictions would adversely affect the quality of art. While that is a legitimate concern, as the arts are an expression of emotion, it is important to realize that, in order for the arts to flourish, they do not need to be unrestricted. Some the greatest works of art were created under severe restrictions. The entire Renaissance, which for example, produced such masterpieces as Michelangelo's Sistine Chapel, Donatello's Madonna and Child, and Dante's Divine Comedy, was funded in large part by the Florentine banking families, not to mention the Vatican.

An additional argument against the idea of greater codification for the National Endowment for the Arts might be that the organization would therefore not be supporting the artistic community at all, since the award of grants would be based on the need for certain artists, rather than absolute support for artistic expression. One needs to realize, however, that the purpose of the National Endowment for the Arts should not be to encourage artistic expression among the artistic community. That would exist whether the National Endowment for the Arts does or not.

The purpose for the NEA ought to be to support the viewers of art, extending their horizon so as to foster the greater artistic understanding of the nation as a whole, not to support the ever-expanding imagination of the elite artistic community.

STATEMENT BY DAN WELCH REGARDING VERMONT EDUCATION STANDARDS

My name is Dan Welch, and two years ago—well, last year, second semester, I was given the opportunity to work with the Vermont Institute for Math, Science and Technology on developing a handbook for understanding the Vermont framework of standards that is in place in our education system right now. And I found, through visiting other schools and talking to college-level people, that the Vermont frameworks are not understood by anyone, and they are the basis for our entire education system for the next decade.

I think that putting standards into education is asking a lot of students for a lot of things, especially the standards as high as these, and my concern is that, when students see standards for the first time, which won't be for a couple years, they are going to choke.

I come from CVU, which is a school where you have to do a standard-based project to graduate, and when this project first started off—the number was 88 percent of kids, three years ago, failed to meet the standards on their first time around. Had there not been a second chance to meet that standard, had it been like an exam for their final in the course, 88 percent of those kids, of a class of 200, would have stayed back and joined the class behind them.

Putting standards into schools is a good thing, to level the playing field and say, well, everyone's getting their education based around this one concept or these ideas. But putting it into such pass-fail stringencies and saying that they are a standard is going far beyond what should be done. And the setup for Vermont's framework of standards is based on a program that was started in Essex, I believe, and they want to work like a rubric for point systems, where it is not necessarily pass-fail.

The Vermont framework for standards is an excellent idea, it is a little vague in the English area, but I would like to see programs like it going up nationwide, because it would really make a difference in the education system as soon as it is fully implemented.

My biggest concern is that, once it is implemented, at what point do students find out about the standards that are expected to be met? I found out my junior year. I would have liked to have known my freshman year, and maybe earlier. This is one of the issues I brought up when I was working with VISMT on rewriting the handbook for understanding the standards, is that the students should know what is expected of them from day one, and the handbooks that I was given should be made available to everyone from, probably, 7th grade, or earlier, on. And parents should be kept informed of what the standards are from the time their child enters the school system until long after, because they should continue their role as an active member of the community to know what is being expected of their local students and how they can get involved to change that.

STATEMENT BY RHYS MARSH REGARDING ACT 60/FEDERAL EDUCATION FUNDING

Act 60 is one of the most controversial and monumental bills to pass the Vermont legislature in recent years. It comes in response to a 1996 decision by the Vermont Supreme Court which declared Vermont's system of education funding illegal according to the Vermont constitution.

The main purpose of Act 60 is therefore to equalize public school funding opportunities in the State of Vermont. Act 60 accomplishes this by introducing a statewide property tax of $1.10 per $100 of property value, which funds block grants of approximately $5,000 per student for each local school district.

As all but 13 of Vermont's 252 towns are currently spending more than the $5,000 block grant per student, towns are given the option of raising additional money for their schools through a local property tax. Under Act 60, the distribution of moneys raised through local taxes has been equalized as well. A tax increase of one cent per $100 of property value in Vernon, which has a fair market property value of about $9 million would obviously not yield as much money as a one cent increase would in Stowe, which has a fair market property value of $769 million. Because of this discrepancy, so-called gold towns such as Stowe and Stratton must give some of their money raised through local taxes to the state. This has the effect of making a one cent tax increase in Stowe produce as much money for the school system as a one cent tax increase would produce in Vernon.

Opponents of the bill say Act 60 has put an unfair tax burden on the more wealthy towns, as they must now share their property tax dollars with other, poorer towns. Some also complain that less affluent families who own property in gold towns will be hurt by the tax increase those towns are likely to face.

However, Act 60 has, in reality, only given all Vermont students equal chance for education funding, regardless of geographical location. Before Act 60 was passed, property taxes varied immensely within the State of Vermont. For example, Stratton provided lavish funds to its schools with a tax rate of only 42 cents per $100. However, in Standard, a grueling tax rate of $4.39 per $100 was necessary to provide adequate school funding. This means that property valued at $100,000 in Stratton would be taxed only $420, while, in Standard, the same property would be taxed $4,390. Under Act 60, both properties will be taxed $1,100, unless their towns decide to spend more than the $5,000 per pupil block grants the state provides.

This means that the property-rich towns will now get the same bang for the buck as property-poor towns. Even if the gold towns continue to fund their schools at the current high levels, the property taxes will not increase the levels any greater than the rates some towns currently pay to send moderate moneys to their schools.

In addition, families with incomes of less than $75,000 have been protected from the possible tax increases associated with Act 60, by capping their property taxes at between 3 and 5 percent of the household income. Act 60 has provided an effective and equitable solution to the problems of Vermont's property taxes and education funding.

However, the property tax is still a regressive tax, and there are still enough inequalities in the state and local taxes within the nation. While there is no stipulation in the Federal Constitution that requires equal education funding from state to state, increased equalized federal aid to states could help to ease the downfalls of the property tax and the funding inequities nationally.

Therefore, I believe the Federal Government should write new legislation based on the ideas behind Act 60 and increase the contributions to public education. This would help to distribute the wealth of the United States more homogeneously and improve school quality, especially in the nation's poorer school districts. It also would move more of the tax burden on Americans from the regressive and volatile local property tax to the progressive income tax of the Federal Government.

Act 60 has done wonders for Vermont. The United States of America could utilize the benefits of legislation similar to Act 60 on a national level, to reduce our reliance on regressive taxes and provide more equal funding for our nation's schools.

Thank you.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 17, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes:

Mr. POMEROY. Mr. Chairman, I rise in opposition to the Lazio Amendment to the VA–HUD Appropriations bill. While I supported H.R. 2, the housing reform bill when it was brought to the floor last year, I do not believe the appropriations bill before us in an appropriate vehicle to move the bill forward. I am supportive of reforming our public housing, however, reform needs to take place in the proper forum.

Attaching a complicated bill like H.R. 2 to an appropriations bill has the potential to delay critical funding for our nation's veterans, housing for low income families and other vital programs. Conference negotiations on the bill could even be delayed to the point of another government shutdown. After witnessing the negative effects of the government shutdown in 1995, we must ensure that we never face that situation again.

I have concerns about the provision in H.R. 2 dealing with the untested home rule provision. The home rule provision would essentially eliminate the role of housing authorities in any decision affecting Section 8 and public housing programs by turning the administration of these programs over to local governments. This and other modifications to public housing need to be thought through carefully. Unfortunately, an appropriations bill does not provide for that type of comprehensive consideration.

TRIBUTE TO FOCUS: HOPE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. DINGELL. Mr. Speaker, I rise today to recognize an organization that is near and dear to my heart. They are celebrating their 30th anniversary this year and on July 25, 1998, they will celebrate another triumph over adversity as they cut the ribbon to re-open their resource center which was badly damaged last year by a tornado. This civil and human rights organization was created by my beloved friends Father William T. Cunningham (1930–1997) and Ms. Eleanor M. Josaitis, and since Father Cunningham's passing, Ms. Josaitis has valiantly continued their work assisting those in need in our community.

Its name is Focus: HOPE, and it unites our multi-cultural community with common efforts to overcome injustice and build racial harmony. This organization is an important part of our great city of Detroit promoting social justice and practical solutions to the problems that plague our inner-cities like: hunger, economic disparity, inadequate education, and racial divisiveness. Focus: Hope combats these problems with technical training, educational and corporate partnerships, and food programs. These are not handouts but a helping hand to give people the tools and means to rejoin society.

This wonderful organization came into being as a result of the riots of 1967 which caused such turmoil in our community. Out of all this Focus: Hope was created like the Phoenix rising from the ashes to turn a city that was ravaged by civil disturbance and racism into a city that has so much to offer for everyone who lives within its borders—a city I am proud to call home.

Focus: Hope's food program helps feed and provide nutrition to pregnant women, postpartum mothers, children from infancy to six and senior citizens 60 years and older. It pays particular attention to at-risk mothers by providing free food, nutritional education and food demonstrations on how to prepare various dishes for the mother and her baby with the monthly food they receive.

Academic skills and job training are an important aspect of Focus: Hope's mission. Fast Track and First Step are two successful programs which help people get back on their feet and learn to advance into good paying technical jobs. First Step works to upgrade the math, communications and computer skills of trainees so that they may enroll in Fast Track or the Machinist Training Institute. Fast Track focuses on academic skills and the disciplines of high school to give folks the tools they need to pursue further technical training or higher educational pursuits.

Mr. Speaker, I would like to close by reading Focus:Hope's mission statement that describes so well what they have done, do and will continue to do hopefully for many more years to come.

"Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice, and to build a metropolitan community where all people may live in freedom, harmony, trust and affection. Black and white, yellow, brown and red from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this covenant."

Mr. Speaker, I ask that all my colleagues join me in paying tribute to this wonderful organization which gives people a second chance and also, gave the city of Detroit a second chance.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1998

Ms. DELAURO. Mr. Speaker, in the 104th Congress, I voted to pass the Private Securities Litigation Reform Act, which was signed into law. The purpose of the law was to reduce the number of frivolous lawsuits brought against companies or stock brokers for fraud.

The bill was aimed at stopping lawsuits by investors in high tech companies that didn't make as much money as expected. These lawsuits are so commonplace, that sometimes clients are even brought into the suit after the suit is filed by a legal representative.

High-tech companies, of which there are many in Connecticut, have volatile stocks and are particularly susceptible to such suits. These companies are often forced to settle with investors to avoid court costs.

Now we need to further refine the law for litigants who try to skirt the law by suing in state instead of federal court. We need one standard for all fifty states. I am pleased to offer my support for the Securities Litigation Uniform Standards Act, and I urge my colleagues to support this measure and close a frivolous lawsuit loophole.

THE PATIENT PROTECTION ACT OF 1998

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. Mr. Speaker, I submit for the RECORD, a section-by-section analysis of H.R. 4250 the Patient Protection Act for my colleagues to review.

THE PATIENT PROTECTION ACT OF 1998

Section 1. Short Title And Table of Contents. This section provides for the short title, "Patient Protection Act of 1998" and a table of contents.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections

Section 1001. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric and Gynecological Care, and Pediatric Care.

Subsection (a). In General. This subsection amends subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 by adding a new Section 713, which follows.

Section 713. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric And Gynecological Care, Pediatric Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan or health insurance issuer may not prohibit or restrict health care professionals under contract from advising participants or beneficiaries about their health status or treatment, even

if benefits for such care or treatment are not covered by the plan or health insurance. Health care professional is defined as a physician (section 1861(r) of the Social Security Act) or other health care professional whose services are provided under the group health plan. This includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

Subsection (b). Patient Access to Emergency Medical Care. This subsection prohibits group health plans or health insurance issuers from requiring beneficiaries to get preauthorization before seeking emergency medical services and requires them to cover emergency medical screening examinations obtained at any emergency medical care facility, whether in or outside a plan's network of affiliated providers, if a prudent layperson with an average knowledge of health and medicine would judge the examination necessary in order to determine whether emergency medical care is needed. The plan or issuer must provide additional emergency medical services to the extent a prudent emergency medical professional determines necessary to avoid the consequences described in section 503(b)(8)(I) of ERISA as amended by this Act. These requirements apply to the extent the group health plan or health insurance issuer covers emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act), except for items or services specifically excluded; and to items or services within the capability of the emergency facility, including routinely available ancillary services. This subsection does not prevent a group health plan or issuer from imposing any form of cost-sharing for emergency medical services so long as the cost-sharing is uniformly applied.

Subsection (c). Patient Access to Obstetric and Gynecological Care. If the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating physician specializing in such care, and the participant's designated primary care provider is not such a specialist, authorization or referral by a primary care provider must not be required for routine gynecological or obstetric care. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric and gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine pediatric care, and requires the designation of a primary care provider, the parent or guardian of any plan beneficiary under 18 years of age may designate a participating physician who specializes in pediatrics, if available, as the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans that have two or more coverage options to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option.

Subsection (b). Conforming Amendment. This subsection simply amends the table of contents of the Employee Retirement Income Security Act of 1974.

Section 1002. Effective Date and Related Rules.

Subsection (a). In General. This subsection states that the amendments made by Subtitle A will apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of the Act. The Secretary is also required to issue all necessary regulations before the effective date.

Subsection (b). Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle A, no enforcement action shall be taken against a plan or issuer for violating a requirement imposed by the amendments before implementing regulations are issued.

Subsection (c). Special Rule for Collective Bargaining Agreements. If a group health plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsections (b), (c), and (d) of section 713 of ERISA as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement relating to the plan, or January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must not be treated as a termination of the collective bargaining agreement.

Subsection (d). Assuring Coordination. This subsection requires the Secretary of Labor, the Secretary of the Treasury, and the Secretary of Health and Human Services to execute an interagency memorandum of understanding to ensure that regulations, rulings, and interpretations on the same matter over which two or more such Secretaries have responsibility are administered so as to have the same effect at all times, and that enforcement policies are coordinated to assign priorities and avoid duplication.

Subsection (e). Treatment of Religious Nonmedical Providers. Among other things, this section clarifies that nothing in this Act shall be construed to prevent a group health plan or health insurance issuer offering coverage in connection with a group health plan from include as covered providers religious nonmedical providers.

Subtitle B—Patient Access to Information

Section 1101. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, And Quality of Medical Care.

Subsection (a). In General. This subsection amends Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 by (1) redesignating section 111 as section 112; and (2) inserting after section 110 the following new Section 111.

Section 111. Disclosure by Group Health Plans.

Subsection (a). Disclosure Requirement. This subsection requires the administrator of each group health plan to ensure that the summary plan descriptions required under ERISA section 102 contain the information described in subsections (b),(c),(d), and (e)(2)(A). Each health insurance issuer connected with a group health plan is also required to provide the necessary information to the administrator or to plan participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required under subsection (a) includes a description of : (A) covered benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage for emergency medical care, the extent of access to urgent care centers, and definitions of terminology referring to emergency medical care; (C) plan benefits for preventive services; (D) any use or application of a drug formulary, including a summary of the process for determining the formulary; (E) and COBRA benefits available under the plan.

Information must also be provided on any limitations, exclusions, or restrictions on covered benefits, including: (A) benefits specifically excluded from coverage, categorized by types of items and services; (B) whether coverage for medical care can be limited or excluded based on utilization review or preauthorization requirements; (C) any lifetime, annual, or other period limitations on coverage, categorized by types of benefits; (D) any limitations or exclusions for custodial care; (E) experimental treatment or technology; or (F) failure to meet the plan's requirements for medical appropriateness or necessity; (G) coverage of second or subsequent opinions; (H) whether referral from a primary care provider is required for specialty care; (I) if continuity of care may be affected by the departure by the health care professional from a defined set of providers; restrictions on coverage of emergency services; and (J) any financial responsibility of participants or beneficiaries for emergency services.

Subsection (c). Participant's Financial Responsibilities. The summary plan description must also explain the participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and whether this may vary if the health care provider is not one of a defined set of providers.

Subsection (d). Dispute Resolution Procedures. The summary plan description must describe the process for dispute resolution adopted by the plan pursuant to section 503(b) of ERISA as amended by this Act. This must explain the procedures and time frames for coverage decisions and internal and external review.

Subsection (e). Information Available on Request. Upon written request, a group health plan or health insurance issuer offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include, in addition to information required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions with available benefits. This is required no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary. Requirements may also be met by making the information generally available on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

A summary description of the types of information available on request must be included in the summary plan description made available to participants and beneficiaries.

In addition to information described above, a group or health plan issuer must provide to participants or beneficiaries upon request information on: (i) any network characteristics with detailed lists of primary care providers and specialists and their geographic locations; (ii) any special disease management programs or programs for persons with

disabilities, whether these programs are voluntary and if benefits would differ significantly for participants in care management; (iii) whether a specific drug or biological is included in the plan's formulary and procedures for waiver requests; (iv) the procedures and medically-based criteria used in an adverse coverage decision if the determination relates to medical necessity, an experimental treatment or technology; (v) the basis on which any preauthorization and utilization review requirement has resulted in an adverse coverage decision; (vi) the accreditation and licensing status of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licensing authority; (vii) the latest information on enrollee satisfaction maintained by the plan or health insurance issuer; (viii) the latest information, if any, on quality performance maintained by the plan or health insurance issuer; and (ix) information about the frequency and outcome of external review decisions requested by enrollees of the plan or health insurance issuer.

Upon request, any health care professional treating a participant or beneficiary under a group health plan must provide to the participant or beneficiary a description of his or her professional qualifications, privileges, experience and general description of the method of compensation for medical care according to categories that may be specified by the Secretary.

In addition, upon request, any health care facility from which a participant or beneficiary has sought treatment under a group health plan must provide to the participant or beneficiary a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status, if any, with standard-setting organizations.

Subsection (f). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan and health insurance issuer must make the summary plan description available for any coverage option in which the participant or prospective participant is eligible to enroll and any information described in clauses (i),(ii),(iii),(vi),(vii), and (viii) of subsection (e)(2)(B).

Subsection (g). Advance Notice of Changes in Drug Formularies. The plan must inform participants not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary used by the plan in the treatment of a chronic illness or disease.

Subsection (h). Definitions.—For purposes of this section: the term "group health plan" has the meaning under section 503(b)(6); the term "medical care" has the meaning under section 733(a)(2); the term "health insurance coverage" has the meaning under section 733(b)(1) and the term "health insurance issuer" has the meaning under section 733(b)(2).

Subsection (b). Conforming Amendments. This section makes miscellaneous conforming amendments to ERISA.

Section 1102. Effective Date and Related Rules.

Subsection (a). In General. Amendments made by Subtitle B—Patient Access to Information will apply to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The subsection also requires the Secretary to issue all necessary regulations before that date.

Subsection (b). Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle B, no enforcement actions shall be taken against a plan or issuer for violating a requirement imposed by the amendments before final regulations are issued.

Subsection (c). Assuring Coordination. This subsection requires the Secretary of Labor, the Secretary of the Treasury, and the Secretary of Health and Human Services to execute an interagency memorandum of understanding to ensure that regulations, rulings, and interpretations on the same matter over which two or more such Secretaries have responsibility are administered so as to have the same effect at all times, and that enforcement policies are coordinated to assign priorities and avoid duplication

Subtitle C—New Procedures and Access to Courts for Grievances Arising Under Group Health Plans

Section 1201. Special Rules for Group Health Plans.

Subsection (a). Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended by adding at the end the following new subsections:

Subsection (b). Special Rules for Group Health Plans.

(1) Coverage Determinations. Every group health plan must provide notice in writing to a participant of any adverse coverage decision with respect to requested benefits under the plan. The notice sets forth the specific reasons for the coverage decision and must be written in a manner that can be understood by the participant. The notice must inform the participant or beneficiary of their ability to file a written request for review of the initial coverage decision (i.e. internal appeal) within 180 days after receipt of the notice. A notice must also be sent to the participant or beneficiary's medical care provider if the provider initiated the claim or seeks reimbursement from the plan. A full and fair de novo review of the decision must be made by an appropriate named fiduciary who did not make the initial decision. Group health plans must also meet the additional requirements of this subsection.

(2) Time Limits for Making Initial Coverage Decisions for Benefits and Completing Internal Appeals.

(A) Time Limits for Deciding Requests for Benefit Payments, Requests for Advance Determination of Coverage, and Requests for Required Determination of Medical Necessity.

(i) Initial Coverage Decisions. If a request for benefit payments, a request for advance determination of coverage, or a request for required determination of medical necessity is submitted to a group health plan in a reasonable form under the plan, the plan must issue in writing an initial coverage decision within 30 days of the filing completion date. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an internal appeal.

(ii) Internal Review of Initial Denials. Upon written request, a review by an appropriate named fiduciary (who pursuant to paragraph (3) must be a physician) must be issued within 30 days of the review filing date and must include a written decision affirming, reversing, or modifying the initial coverage decision setting forth the grounds for the decision. The decision is treated as the final decision of the plan except in the case of an adverse coverage decision with respect to which the participant elects an external review as described below. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an external review.

(B) Time Limits for Making Coverage Decisions Relating to Urgent and Emergency Medical Care and for Completing Internal Appeals.

(i) Initial Coverage Decisions. In general, for any request for expedited advance determination of coverage, a group health plan must issue in writing an initial coverage decision within 10 days in cases involving urgent medical care or within 72 hours in cases involving emergency medical care. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an internal appeal.

(ii) Internal Review of Initial Denials. Upon written request, a review by an appropriate named fiduciary (who pursuant to paragraph (3) must be a physician) must be issued within 10 days for urgent medical care and 72 hours for emergency medical care and must include a written decision affirming, reversing, or modifying the initial coverage decision and setting forth the grounds for the decision. The decision is treated as the final decision of the plan except in the case of an adverse coverage decision with respect to which the participant elects an external review as described below. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an external review.

(3) Physicians Must Review Initial Coverage Decisions Involving Medical Appropriateness or Necessity or Experimental Treatment. If an initial coverage decision is based on a determination that a particular item or service is excluded from coverage under the terms of the plan because the provision of such item or service does not meet the plan's requirements for medical appropriateness or necessity or would constitute experimental treatment or technology, the internal review shall be conducted by a physician who did not make the initial denial.

(4) Participant Election of External Review by Independent Medical Expert and Reconsideration of Initial Review Decision.

(A) General Requirements for External Review. The external review requirements described in (B), (C), and (D) apply in the case of (1) any failure to timely issue a coverage decision under an internal review, or (2) the internal review decision is based on a determination that a particular item or service is excluded from coverage under the terms of the plan because it does not meet the plan's requirements for medical appropriateness or necessity or would constitute experimental treatment or technology.

(B) Limits on Allowable Advance Payments. The external review in connection with an adverse coverage decision is available subject to any requirement of the plan (unless waived by the plan for financial or other reasons) for payment in advance by the participant or beneficiary seeking review of an amount equal to $25, or if greater 10 percent of the cost of the medical care involved up to a maximum of $100. No payment may be required of a participant enrolled in a plan pursuant to a program under Medicaid (Title XIX of the Social Security Act) or under a State Childrens' Health Insurance Program (Title XXVI of such Act). The payment is to be refunded if the recommendation under external review is to modify or reverse the internal review decision.

(C) Reconsideration of Initial Review Decision. If an internal appeal results in an adverse coverage decision, a participant or beneficiary can make a request in writing within 30 days for an external review and reconsideration of the initial review decision denying coverage. The plan must provide for a procedure under which one or more independent medical experts selected under the plan will review the coverage decision to determine whether the decision was in accordance with the terms of the plan and Title I. The record for review (including a specification of the terms of the plan and other criteria serving as the basis for the initial review decision denying coverage) will be presented to such expert(s) who must maintain such record in a manner to ensure confidentiality. The expert(s) will then report in writing to the plan their recommendation as to whether the coverage decision should be affirmed, modified, or reversed. An explanation of the grounds (including the clinical basis) for the recommendation must be included. A physician selected under the plan, who did not make the initial internal review decision, must then reconsider the decision denying coverage to determine whether the decision was in accordance with the terms of the plan and Title I and must issue a written decision affirming, modifying, or reversing the decision, taking into account the recommendation of the external review medical expert(s). The decision must set forth the grounds for the decision.

(D) Time Limits for Reconsideration. The review must be completed within 72 hours for emergency medical care, within 10 days for urgent medical care or within 25 days in other cases. The decision affirming, reversing, or modifying the initial review decision of the plan denying coverage is the final decision of the plan. Failure to issue a written decision will be treated as a final decision affirming the initial review decision of the plan, thus allowing for court review.

(E) Independent Medical Expert.

(i) In General. The term 'independent medical expert' means a medical professional who is a physician (or if appropriate another medical professional) who has appropriate credentials (including licensing in the applicable medical field) and has attained recognized expertise in the applicable medical field. Under the selection procedures in clause (ii), the expert must also meet strict rules of independence as described below.

(ii) Selection of Medical Experts. To ensure independence of the recommendation with respect to a particular external review, a plan must have procedures that follow one of the following means of selecting independent medical expert(s). Under the first option, the independent expert must be selected by an independent intermediary by means of a method that ensures that the identity of the expert is not disclosed and the identity of the plan, issuer and patient is not disclosed to the expert. Under the second option, the independent expert must be selected by an independent and appropriately credentialed panel of physicians established by a fully accredited teaching hospital. Under the third option, the independent expert must be selected by an independent peer review organization as described in section 1152(1)(A) of the Social Security Act. Under the fourth option, the independent expert must be selected by an independent external review organization accredited by a private standard-setting organization recognized by the Secretary. The independent expert may also be selected, under a plan, by an intermediary or otherwise that sufficiently ensures the expert's independence as prescribed under regulations issued pursuant to negotiated rulemaking. Nothing in this section shall be construed to require that the external review be conducted by a governmental entity.

(iii) Independence Requirements. A professional or entity meets the independence requirements if they are not affiliated with any related party, if they are not receiving any compensation in connection with the external review that is contingent on any decision rendered by the professional, if the plan and the issuer have no recourse against the professional in connection with the recommendation under external review, and if the professional or entity does not otherwise have a conflict of interest with a related party.

(iv) Related Party. The term 'related party' means the plan or any health insurance issuer offering health insurance coverage in connection with the plan (or any officer, director, or management employee of such plan or issuer), the physician or other medical care provider that provided the medical care involved in the coverage decision, the institution at which the medical care involved in the coverage decision is provided, the manufacturer of any drug or other item that was included in the medical care involved in the coverage decision, or any other party determined to have a substantial interest in the coverage decision .

(v) Affiliated. The term 'affiliated' means, in connection with any entity, having a familial, financial, or professional relationship with, or interest in, such entity.

(F) Inapplicability with Respect to Items and Services Specifically Excluded from Coverage. An adverse coverage decision that is based on a determination that an item or service is excluded from coverage under the terms of the plan shall not be subject to external review, unless the determination is found in the decision to be based solely on the fact that the item or service does not meet the plan's requirements for medical appropriateness or necessity, or would constitute experimental treatment or technology.

(5) Permitted Alternatives to Required Internal Review.

(A) In General. A group health plan will not fail to meet the requirements relating to the review of initial coverage decisions for benefits, if in lieu of the procedures relating to review, the aggrieved participant or beneficiary elects an alternative dispute resolution procedure or the plan provides for an alternative dispute resolution procedure pursuant to a collective bargaining agreement. The time limits of the alternative dispute resolution procedure are not to exceed the time limits otherwise applicable. In any case in which such an alternative dispute resolution procedure is voluntarily elected by the aggrieved participant or beneficiary, the plan may require or allow the participant or beneficiary to waive review of the coverage decision, to waive further review of the coverage decision, and to elect an alternative means of external review.

(B) Additional Requirements. The dispute resolution must allow for adequate presentation by the aggrieved participant or beneficiary of scientific and medical evidence supporting the participant's or beneficiary's position.

(6) Permitted Alternatives to Required External Review. A group health plan does not fail to meet the external review requirements if the participant or beneficiary elects to utilize a procedure which is generally available under the plan, the plan agrees in advance to abide by the recommendation of the independent medical expert(s), and the participant or beneficiary waives in advance any right to further review of the final decision.

(7) Special Rule for Access to Specialty Care. In the case of a request by a physician for advance determination of coverage of a specialist's services, if those services are otherwise provided under the plan, then the initial coverage decision shall be issued within the specialty decision period (72 hours). The term 'specialist' means with respect to a condition, a physician who has a high level of expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to treat the condition.

(8) Group Health Plan Defined. The term 'group health plan' has the meaning provided in section 733(a).

(9) Other Definitions.

(A) Request for Benefit Payments. The term 'request for benefit payments' means a request, for payment of benefits by a group health plan for medical care, which is made by or on behalf of a participant or beneficiary after the medical care has been provided.

(B) Required Determination Of Medical Necessity. The term 'required determination of medical necessity' means a determination that the proposed medical care meets the plan's requirements for medical appropriateness or necessity (which may be subject to exceptions under the plan for fraud or misrepresentation), irrespective of whether the proposed medical care otherwise meets other terms and conditions of coverage, but only if the determination does not constitute an advance determination of coverage.

(C) Advance Determination of Coverage. The term 'advance determination of coverage' means a determination that the proposed medical care meets, under the facts and circumstances at the time of the determination, the plan's terms and conditions of coverage (which may be subject to exceptions under the plan for fraud or misrepresentation).

(D) Request for Advance Determination of Coverage. The term 'request for advance determination of coverage' means a request for an advance determination of coverage of medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

(E) Request for Expedited Advance Determination of Coverage. The term 'request for expedited advance determination of coverage' means a request for advance determination of coverage, in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

(F) Request for Required Determination of Medical Necessity. The term 'request for required determination of medical necessity' means a request for a required determination of medical necessity for medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

(G) Request for Expedited Required Determination of Medical Necessity. The term 'request for expedited required determination of medical necessity' means a request for required determination of medical necessity in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

(H) Urgent Medical Care. The term 'urgent medical care' means medical care in any case in which an appropriate physician has certified in writing that failure to provide

the participant or beneficiary with such medical care within 45 days can reasonably be expected to result in either the imminent death of the participant or beneficiary, or the immediate, serious, and irreversible deterioration of the health of the participant or beneficiary which will significantly increase the likelihood of death, or irreparable harm.

(I) Emergency Medical Care. The term 'emergency medical care' means medical care in any case in which an appropriate physician has certified in writing that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in placing the health of such participant or beneficiary (or, with respect to a participant or beneficiary who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part, or that immediate provision of the care is necessary because the participant or beneficiary has made or is at serious risk of making an attempt to harm himself or herself or another individual.

(J) Initial Decision Period. The term 'initial decision period' means a period of 30 days. In general, the calendar days specified in the various decision and review periods may be extended pursuant to regulations prescribed by the Secretary.

(K) Internal Review Period. The term 'internal review period' means a period of 30 days.

(L) Urgent Decision Period. The term 'urgent review period' means a period of 10 days.

(M) Emergency Decision Period. The term 'emergency review period' means a period of 72 hours.

(N) Specialty Decision Period. The term 'specialty decision period' means a period of 72 hours.

(O) Reconsideration Period. The term 'reconsideration period' means a period of 25 days. In cases involving urgent medical care, this term means the urgent decision period (generally, 10 days). In cases involving emergency medical care, this term means the emergency decision period (generally, 72 hours).

(P) Filing Completion Date. The term 'filing completion date' means, in connection with a group health plan, the date as of which the plan is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make an initial coverage decision.

(Q) Review Filing Date. The term 'review filing date' means the date as of which the appropriate named fiduciary (or the independent medical expert(s)) is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make a decision to affirm, modify, or reverse a coverage decision.

(R) Medical Care. The term 'medical care' has the meaning provided such term by section 733(a)(2).

(S) Health Insurance Coverage. The term 'health insurance coverage' has the meaning by section 733(b)(1).

(T) Health Insurance Issuer. The term 'health insurance issuer' has the meaning provided by section 733(b)(2).

(U) Written or in Writing.

(i) In General. A request or decision shall be deemed to be 'written' or 'in writing' if the request or decision is presented in a generally recognized printable or electronic format.

(ii) Medical Appropriateness or Experimental Treatment Determinations. In the case of a request for advance determination of coverage, a request for expedited advance determination of coverage, a request for required determination of medical necessity, or a request for expedited required determination of medical necessity, if the decision is conveyed to the provider of medical care or to the participant or beneficiary by means of telephonic or other electronic communications, that decision will be treated as a written decision.

Subsection (b). Civil Penalties. Section 502(c) of ERISA (29 U.S.C. 1132(c)) is amended to insert a new paragraph (6):

(6)(A). If a benefit under a group health plan is not timely provided to a participant or beneficiary pursuant to a plan's final decision, which did not follow the terms of the plan or Title I and the final decision under the plan is contrary to the recommendation made under the external review, then any person acting in the capacity of a fiduciary who takes an action (or fails to take an action) in violation of the plan or title I may, in the court's discretion, be liable to the aggrieved participant or beneficiary for a civil penalty in the amount of up to $500 a day (or up to $1,000 in the case of a bad faith violation) from the date on which the recommendation was made to the plan until the date the failure to provide benefits is corrected, up to a total amount not to exceed $250,000.

(6)(B). If a person acting in the capacity of a fiduciary took or failed to take action that resulted in an adverse coverage decision violating the terms of the plan or Title I, upon a court finding in favor of the plaintiff, if this occurred in connection with the action described in (A) or under section (b)(4), then the court is to issue an order requiring the defendant to cease and desist from the alleged action or failure to act, and to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(6)(C). (i) The Secretary may assess a civil penalty against a person acting in the capacity of a fiduciary of one or more group health plans for any pattern or practice of repeated adverse coverage decisions that violates the terms of the plan(s) or Title I. A penalty must be paid upon proof by clear and convincing evidence of such pattern or practice.

(ii) A penalty shall be in an amount not to exceed the lesser of 5 percent of the aggregate value of benefits shown by the Secretary to have not been provided or unlawfully delayed, or $100,000.

(iii) Any person acting in the capacity of a fiduciary of a group health plan(s) who has engaged in any such pattern or practice, upon the petition of the Secretary, may be removed by the court from that position and from any other involvement, and may be precluded from returning to any such position or involvement for a period determined by the court.

Subsection (c). Expedited Court Review. Section 502 of ERISA (29 U.S.C. 1132) is amended by adding the following new paragraph (b)(4):

(4) In a case in which it is demonstrated to the court by means of a certification by an appropriate physician that exhaustion of administrative remedies is not reasonably attainable under the facts and circumstances without undue risk of irreparable harm to the health of a participant or beneficiary, a civil action may be brought by the participant or beneficiary to obtain appropriate equitable relief.

Subsection (d). Standard of Review Unaffected. The standard of review under section 502 ERISA shall continue on and after the date of the enactment to be the standard of review applicable immediately prior to enactment.

Subsection (e). Concurrent Jurisdiction. State courts have concurrent jurisdiction in actions arising under new sections 502(b)(4) and (a)(1)(A) for relief under subsection (c)(6).

Section 1202. Effective Date.

Subsection (a). In General. The amendments made by this subtitle shall apply to grievances arising in plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act.

Subsection (b). Limitation on Enforcement Actions. No enforcement action shall be taken against a group health plan or health insurance issuer before the date that final regulations are issued, if the plan or issuer has sought to comply in good faith with such requirement.

Subsection (c). Collective Bargaining Agreements. Any amendments made to a plan solely to conform to requirements added by this subtitle shall not be treated as a termination of a collective bargaining agreement.

Nothing in the amendments made by this Subtitle C shall be construed to affect whether or the extent to which the provisions of Title I of the Employee Retirement Income Security Act of 1974 supersede State laws. It is intended that the addition of more explicit internal review and external review provisions under section 503 of ERISA and the additional remedies under 502 of ERISA not expand or contract existing law as to whether or the extent to which ERISA supersedes state law. The ERISA section 514 clause has not been changed in this connection and, therefore, whether ERISA does or does not preempt any particular state statute is left unchanged. Accordingly, this section is not intended to affect the outcome of any matters pending in court as to the extent or scope of such ERISA preemption of state laws.

Subtitle D—Affordable Health Coverage for Employees of Small Businesses

Section 1301. This Subtitle may be cited as the "Small Business Affordable Health Coverage Act of 1998".

Section 1302. Rules Governing Association Health Plans

Subsection (a). Rules governing regulation of association health plans This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I of ERISA, as follows:

Section 801. Association Health Plans. The term "association health plan" means a "group health plan" (which is defined in ERISA as added by the Health Insurance Portability and Accountability Act or HIPAA; under HIPAA such group health plans are subject to all of the portability, preexisting condition, nondiscrimination, special enrollment, renewability and other provisions of ERISA Part 7)—

(1) under which at least one option of fully-insured "health insurance coverage" offered by a health insurance issuer is made available to plan participants and beneficiaries, and

(2) whose sponsor of the plan meets the following conditions:

The sponsor of an Association Health Plan (AHP) must be organized and maintained in

good faith, with a constitution and bylaws specifically stating its purpose and providing for at least annual meetings, as a trade association, an industry association (including a rural electric or rural telephone cooperative), a professional association, or a chamber of commerce (or similar business association, including a similar organization that operates on a cooperative basis within the meaning of section 1381 of the IRC), for substantial purposes other than that of obtaining or providing medical care. Also, the applicant must demonstrate that the sponsor is established as a permanent entity, has the active support of its members, and collects dues from its members without conditioning such on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of the member's participation in a group health plan.

In addition to the associations described above, certain other entities are eligible to seek certification as AHPs. These include franchise networks and multiemployer plans. Section 812 also makes eligible certain church plans voluntarily electing to come under the fiduciary, reporting, and actuarial standards contained in the subsection.

Section 802. Certification of Association Health Plans. This section establishes a procedure for the certification of Association Health Plans by the applicable authority (a state authority or, if a state does not elect to become the applicable authority, the Secretary). The applicable authority shall grant certification only if such certification is administratively feasible, not adverse to the interests of the individuals covered under it, and protective of the rights and benefits of the individuals covered under the plan. In essence, this procedure has the same effect as requiring the provision in ERISA section 514(b)(6)(B) under current law to be implemented so as to enable association health plans to operate. A "class certification" procedure is established to speed the approval of plans which offer only fully-insured health insurance coverage. An AHP that is certified must also meet the applicable requirements of Part 8 as described below.

Section 803. Requirements Relating to Sponsors and Boards of Trustees. This section establishes additional eligibility requirements for AHPs. Applicants must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least 3 years for substantial purposes other than providing coverage under a group health plan.

Subsection (b) also requires that the plan be operated, pursuant to a trust agreement, by a "board of trustees" which has complete fiscal control and which is responsible for all operations of the plan. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the plan and to meet all applicable requirements of the certification and Title I of ERISA. The board of trustees must consist of individuals who are owners, officers, directors or employees of the employers who participate in the plan.

Section 804. Participation and Coverage Requirements. This section prohibits discrimination against eligible employers and employees by requiring that all employers who are association members be eligible for participation under the terms of the plan, that benefit options be actively marketed to all eligible members, and that eligible individuals of such participating employers not be excluded from enrolling in the plan because of health status. The legislation will not affect the individual health insurance market adversely inasmuch as the bill requires that no participating employer may exclude an employee from enrollment under an AHP by purchasing an individual policy of health insurance coverage for such person based on their health status.

Section 805. Other Requirements Relating to Plan Documents, Contribution Rates, and Benefit Options. This section requires an association health plan to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 806 are met; (2) the contribution rates for any particular small employer must be nondiscriminatory— they cannot be based on the claims experience of the particular employer or on the type of business or industry in which the employer is engaged (any variation in a state must be limited to that permitted under state small group rating laws), (3) the plan has at least 1,000 participants and beneficiaries if the plan does not consist solely of fully-insured health insurance coverage, and (4) the plan meets such other requirements as may be set forth in regulations.

The rules also stipulate that association health plans must be allowed to design benefit options. Specifically, no provision of state law shall preclude an AHP or health insurance issuer from exercising its discretion in designing the items and services of medical care to be included as health insurance coverage under the plan, except to the extent that such law (1) prohibits the exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to the matters governed by section 711 (relating to maternal and newborn hospitalization) and section 712 (relating to mental health coverage).

In addition, no provision of law shall be construed to preclude an AHP or health insurance issuer from setting contribution rates based on the experience under the plan to the extent such rates are nondiscriminatory as described above.

Section 806. Maintenance of Reserves and Provisions for Solvency for Plans Providing Health Benefits in Addition to Health Insurance Coverage. This section requires AHPs offering benefit options that do not consist solely of fully-insured health insurance coverage to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, any other obligations and a margin for error recommended by the plan's qualified actuary. In addition, each plan must secure coverage from a state licensed insurer consisting of (1) aggregate stop-loss insurance with an attachment point not greater than 125% of expected gross claims, (2) specific stop-loss insurance with an attachment point, as recommended by the plan's qualified actuary, up to $200,000, and (3) to prevent insolvency, indemnification insurance for any claims which a plan is unable to satisfy by reason of a mandatory termination described under section 809(b). The plan must maintain minimum surplus in the amount of $2,000,000 reduced to not less than $500,000 based on the level of the stop-loss coverage maintained by the plan. The applicable authority may provide additional requirements relating to reserves and excess/stop loss insurance. To ensure that indemnification insurance will be available to pay all claims in the event of the termination of a plan, AHPs must make annual payments to an AHP fund which would guarantee that indemnification insurance is always available to pay such claims.

Section 807. Requirements for Application and Related Requirements. This section sets forth additional criteria which association health plans must meet to qualify for certification. The applicable authority shall grant certification to a plan only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; and (2) all other terms of the certification are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the certification).

The application must include the following: (1) identifying information about the arrangement and the states in which it will operate; (2) evidence that the bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of 806 will be met, that contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the applicable authority considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority. Certified association health plans must notify the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

Section 808. Notice Requirements for Voluntary Termination. This section requires that, except as provided in section 809, an AHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the applicable authority a plan providing for timely payment of all benefit obligations.

Section 809. Corrective Actions and Mandatory Termination. This section requires an AHP which offers benefit options which are not fully-insured to continue to meet the reserve requirements under section 806 even if its exemption is no longer in effect. The board of trustees of such an AHP must quarterly determine whether the reserve requirements of section 806 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the applicable authority. In any case where an AHP notifies the applicable authority that it has failed to meet the reserve requirements and corrective action has not restored compliance, and the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements applicable to such AHPs, the applicable authority may direct the board to terminate the arrangement.

Section 810. Trusteeship of Insolvent Association Health Plans Providing Health Benefits in Addition to Health Insurance Coverage. Whenever an association health plan is unable to provide benefits when due or is otherwise in a financially hazardous condition, the Secretary is to give notice to the plan and participants and apply to the appropriate court to act as a trustee to administer the plan for the duration of the insolvency.

Section 811. State Assessment Authority. A state may impose a nondiscriminatory tax on an association health plan described in

section 806(a)(2), with respect to operations in the state commenced after the date of the enactment, if the rate does not exceed the rate of similar premium or contribution taxes on health maintenance organizations and other insurers.

Section 812. Special Rules for Church Plans. This section permits church plans providing medical care to voluntarily elect to apply to the Department of Labor for certification. In order to receive an exemption from state insurance law, an electing church plan would be subject to the requirements of section 810 providing for compliance with fiduciary standards (exclusive purpose and prudence rules); claims procedures; annual certification by a qualified actuary that the plan maintains reserves, capital, insurance or other financial arrangements adequate to enable the plan to meet all of its financial obligations on a timely basis; and annual statements certifying plan compliance with the above.

Section 813. Definitions and Rule of Construction. This section defines the following terms: group health plan, medical care, health insurance coverage, health insurance issuer, health status-related factor, individual market, participating employer, qualified actuary and applicable state authority. The terms are consistent with those added to ERISA by the Health Insurance Portability and Accountability Act. In addition, the terms "employer" and "employee" include self-employed individuals and partners for purposes of the application of Part 8 and the provisions of Title I as applicable to association health plans.

Subsection (b). Conforming Amendments. This subsection contains (1) conforming changes to the definition of "plan sponsor" to include the sponsor of an AHP; (2) conforming changes to the Title I exception for church plans electing association health plan status; and (3) as described below, conforming changes to the section 514 preemption rules to reflect the policy changes under Part 8 with respect to association health plans. First, paragraph (6) of section 514(b) is made inapplicable with respect to any state law in the case of a certified AHP. Secondly, a new subsection 514(d) (current subsection (d) is redesignated as (e)) clarifies the ability of health insurance issuers to offer health insurance coverage under AHPs and clarifies the ability of any health insurance issuer to offer health insurance coverage of the same policy type as offered in connection with a particular AHP to eligible employers, regardless of whether such employers choose or do not choose to become members of the particular association. Health insurance coverage policy forms filed and approved in a particular state in connection with an insurer's offering under an association health plan are deemed to be approved in any other state in which such coverage is offered when the insurer provides a complete filing in the same form and manner to the authority in the other state. Also, this section removes the current restriction on state regulation of self-insured multiple employer welfare arrangements providing medical care (which do not elect to meet the certification requirements for AHPs) under section 514(b)(6)(A)(ii) by eliminating the requirement that such state laws otherwise "be consistent with the provisions of ERISA Title I." Other than as described above, the preemptive provisions of section 514 continue to apply as under current law, including their application with respect to self-insured plans and direct contracting with providers under such plans.

Section 1303. Clarification of Treatment of Single Employer Arrangements. This section clarifies the treatment of certain single employer arrangements under the section of ERISA that defines a multiple employer welfare arrangement (section 3(40)). The treatment of a single employer plan as being excluded from the definition of such an arrangement is clarified by defining the minimum interest required for two or more entities to be in "common control" as a percentage which cannot be required to be greater than 25%. Also a plan would be considered a single employer plan if less than 25% of the covered employees are employed by other participating employers.

Section 1304. Clarification of Treatment of Certain Collectively Bargained Arrangements. This section clarifies the conditions under which multiemployer and other collectively-bargained arrangements are exempted from the definition of a multiple employer welfare arrangement, and thus exempt from state law. This is intended to address the problem of "bogus unions" and other illegitimate health insurance operators. The provision amends the definition of such an arrangement to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining arrangement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relations laws). (Current law requires the Secretary to "find" that a collective bargaining agreement exists, but no such finding has ever been issued). It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement and thus not a multiple employer welfare arrangement. These include:

(1) The plan cannot utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least 3 years or have been affiliated with another employee organization in existence for at least 3 years, or demonstrate to the Secretary that certain of the above requirements have been met.

Section 1305. Enforcement Provisions Relating to Association Health Plans. This section amends ERISA to establish enforcement provisions relating to association health plans and multiple employer welfare arrangements: (1) willful misrepresentation that an entity is an exempted AHP or collectively-bargained arrangement may result in criminal penalties; (2) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of a certification granted by the applicable authority under part 8; and (3) the section provides for the responsibility of the named fiduciary or board of trustees of an AHP to comply with the required claims procedure under ERISA.

Section 1306. Cooperation between Federal and State Authorities. This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to specify State responsibility with respect to Association Health Plans. In general, a state would be the applicable authority under Part 8 to the extent the state enters into an agreement with the Secretary for delegation to the state of some or all of the authority under Title I to certify AHPs and to enforce the provisions applicable to certified AHPs. The Secretary would be the applicable authority if a state did not assume such authority.

Section 1307. Effective Date; Transitional Rules. In general, the amendments made by the Act are effective January 1, 2000. Sections 3 and 4 are effective upon date of enactment. The provisions of section 801(a)(2) relating to health insurance coverage do not apply to group health plans existing on April 1, 1997 if they do not provide fully-insured health insurance coverage, but later qualify for certification. In certain cases existing state licensed plans would be eligible to become certified.

Pilot Program for Self-Insured Association Health Plans. During a 5-year pilot program period, association health plans may offer self-insured benefit options only if they consist of the following: (A) plans which offer such coverage on the date of enactment, (B) the sponsor of the plan does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or (C) plans whose eligible participating employers represent one or more trades, businesses, industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, and other demonstrated means, including (but not limited to) the following: agriculture; automobile dealerships; barbering and cosmetology; child care; construction; dance, theatrical, and orchestra productions; disinfecting and pest control; eating and drinking establishments; fishing; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; sanitary services; transportation (local and freight); and warehousing.

TITLE II—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Subtitle A—Patient Protections and Point of Service Coverage Requirements.

Section 2001. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, and pediatric care.

Subsection (a). In General. This section amends subpart 2 of part A of title XXVII of the Public Health Service Act by adding a new Section 2706, which follows.

Section 2706. Patient Access to Unrestricted Medical Advice, Emergency Medical

Care, Obstetric And Gynecological Care, Pediatric Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan or health insurance issuer may not prohibit or restrict health care professionals under contract from advising participants or beneficiaries about their health status or treatment, even if benefits for such care or treatment are not covered by the plan or health insurance. Health care professional is defined as a physician (section 1861(r) of the Social Security Act) or other health care professional whose services are provided under the group health plan. This includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

Subsection (b). Patient Access to Emergency Medical Care. This subsection prohibits group health plans or health insurance issuers from requiring beneficiaries to get preauthorization before seeking emergency medical services and requires them to cover emergency medical screening examinations obtained at any emergency medical care facility, whether in or outside a plan's network of affiliated providers, if a prudent layperson with an average knowledge of health and medicine would judge the examination necessary in order to determine whether emergency medical care is needed. The plan or issuer must provide additional emergency medical services to the extent a prudent emergency medical professional determines necessary to avoid the consequences described in section 503(b)(8)(I) of ERISA as amended by this Act. These requirements apply to the extent the group health plan or health insurance issuer covers emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act), except for items or services specifically excluded; and to items or services within the capability of the emergency facility, including routinely available ancillary services. This subsection does not prevent a group health plan or issuer from imposing any form of cost-sharing for emergency medical services so long as the cost-sharing is uniformly applied.

Subsection (c). Patient Access to Obstetric and Gynecological Care. If the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating physician specializing in such care, and the participant's designated primary care provider is not such a specialist, authorization or referral by a primary care provider must not be required for routine gynecological or obstetric care. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric and gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine pediatric care, and requires the designation of a primary care provider, the parent or guardian of any plan beneficiary under 18 years of age may designate a participating physician who specializes in pediatrics, if available, as the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans that have two or more coverage options to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option.

Subsection (b). Effective Date and Related Rules.

In General. This subsection states that the amendments made by Subtitle A will apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of the Act. The Secretary is also required to issue all necessary regulations before the effective date.

Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle A, no enforcement action shall be taken against a plan or issuer for violating a requirement imposed by the amendments before implementing regulations are issued.

Special Rule for Collective Bargaining Agreements. If a group health plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsections (b), (c), and (d)of section 713 of ERISA as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement relating to the plan, or January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must not be treated as a termination of the collective bargaining agreement.

Application to group health plans and health insurance issuers. As under current law, the application of Subpart 2, as amended by this section, applies with respect to group health plans that are nonfederal governmental plans and with respect to health insurance coverage offered by health insurance issuers in connection with all group health plans (private and governmental).

Section 2002. Requiring Health Maintenance Organizations to Offer Option of Point-of-Service Coverage.

Subsection (a). In General. This section amends Title XXVII of the Public Health Service Act by inserting after section 2713 the following new section:

Section 2714. Requiring Offering of Option of Point-of-Service Coverage.

Subsection (a). Requirement to Offer Coverage Option to Certain Employers. Except as provided in subsection (c), any health insurance issuer which (1) is a health maintenance organization (as defined in section 2791(b)(3)), and (2) which provides for coverage of services of one or more classes of health care professionals which are furnished exclusively through closed panels of health care professionals, shall make available to the plan sponsor in connection with such plan, a coverage option which provides for coverage of such services which are furnished through such class (or classes) of health care professionals regardless of whether or not the professionals are members of such panel.

Subsection (b). Requirement to Offer Supplemental Coverage to Participants in Certain Cases. If a health insurance issuer makes available a coverage option under and described in subsection (a) to a plan sponsor of a group health plan and the sponsor declines to contract for such coverage option, then the issuer must make available in the individual insurance market to each participant in the group health plan optional separate supplemental health insurance coverage in the individual health insurance market which consists of services identical to those provided under such coverage provided through the closed panel under the group health plan but are furnished exclusively by health care professionals who are not members of such a closed panel. Exceptions are provided in subsection (c).

Subsection (c). Exceptions.

(1) Offering of non-panel option. Subsections (a) and (b) shall not apply with respect to a group health plan if the plan offers a coverage option that provides coverage for services that may be furnished by a class or classes of health care professionals who are not in a closed panel. This paragraph shall be applied separately to distinguishable groups of employees under the plan.

(2) Availability of coverage through a HealthMart. Subsections (a) and (b) shall not apply to a group health plan if the health insurance coverage under the plan is made available through a HealthMart (as defined in section 2801) and if any health insurance coverage made available through the HealthMart provides for coverage of the services of any class of health care professionals other than through a closed panel of professionals.

(3)Relicensure exemption.—Subsections (a) and (b) shall not apply to a health maintenance organization in a State in any case in which—

(A) the organization demonstrates to the applicable authority that the organization has made a good faith effort to obtain (but has failed to obtain) a contract between the organization and any other health insurance issuer providing for the coverage option or supplemental coverage described in subsection (a) or (b), as the case may be, within the applicable service area of the organization, and

(B) the State requires the organization to receive or qualify for a separate license, as an indemnity insurer or otherwise, in order to offer such coverage option or supplemental coverage, respectively.

The applicable authority may require that the organization demonstrate that it meets the requirements of the previous sentence no more frequently that once every two years.

(4) Increased costs.—Subsections (a) and (b) shall not apply to a health maintenance organization if the organization demonstrates to the applicable authority, in accordance with generally accepted actuarial practice, that, on either a prospective or retroactive basis, the premium for the coverage option or supplemental coverage required to be made available under such respective subsection exceeds by more than 1 percent the premium for the coverage consisting of services which are furnished through a closed panel of health care professionals in the class or classes involved. The applicable authority may require that the organization demonstrate such an increase no more frequently that once every two years. This paragraph shall be applied on an average per enrollee or similar basis.

(5)Collective bargaining agreements.—Subsections (a) and (b) shall not apply in connection with a group health plan if the plan is established or maintained pursuant to one or more collective bargaining agreements.

Subsection (d). Definitions. For purposes of this section, the following definitions apply:

Coverage through closed panel. Health insurance coverage for a class of health care

professionals shall be treated as provided through a closed panel of such professionals only if such coverage consists of coverage of items or services consisting of professionals services which are reimbursed for or provided only within a limited network of such professionals.

Health care professional. The term 'health care professional' has the meaning given such term in section 2706(a)(2).

Subsection (b). Effective Date. This subsection states that the amendment made by subsection (a) applies to coverage offered on or after January 1 of the second calendar year following the date of enactment of this Act.

Subtitle B—Patient Access to Information

Section 2101. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, And Quality of Medical Care.

Subsection (a). In General. This subsection amends subpart 2 of part A of title XXVII of the Public Health Service Act (as amended by subtitle A of this title) by adding the following new Section 2707.

Section 2707. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, and Quality of Medical Care.

Subsection (a). Disclosure Requirement. This subsection requires the administrator of each group health plan to ensure that the summary plan descriptions required under ERISA section 102 contain the information described in subsections (b),(c),(d), and (e)(2)(A). Each health insurance issuer connected with a group health plan is also required to provide the necessary information to the administrator or to plan participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required under subsection (a) includes a description of : (A) covered benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage for emergency medical care, the extent of access to urgent care centers, and definitions of terminology referring to emergency medical care; (C) plan benefits for preventive services; (D) any use or application of a drug formulary, including a summary of the process for determining the formulary; (E) and COBRA benefits available under the plan.Information must also be provided on any limitations, exclusions, or restrictions on covered benefits, including: (A) benefits specifically excluded from coverage, categorized by types of items and services; (B) whether coverage for medical care can be limited or excluded based on utilization review or preauthorization requirements; (C) any lifetime, annual, or other period limitations on coverage, categorized by types of benefits; (D) any limitations or exclusions for custodial care; (E) experimental treatment or technology; or (F) failure to meet the plan's requirements for medical appropriateness or necessity; (G) coverage of second or subsequent opinions; (H) whether referral from a primary care provider is required for specialty care; (I) if continuity of care may be affected by the departure by the health care professional from a defined set of providers; restrictions on coverage of emergency services; and (J) any financial responsibility of participants or beneficiaries for emergency services.

Subsection (c). Participant's Financial Responsibilities. The summary plan description must also explain the participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and whether this may vary if the health care provider is not one of a defined set of providers.

Subsection (d). Dispute Resolution Procedures. The summary plan description must describe the process for dispute resolution adopted by the plan pursuant to section 503(b) of ERISA as amended by this Act. This must explain the procedures and time frames for coverage decisions and internal and external review.

Subsection (e). Information Available on Request. Upon written request, a group health plan or health insurance issuer offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include, in addition to information required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions with available benefits. This is required no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary. Requirements may also be met by making the information generally available on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries. A summary description of the types of information available on request must be included in the summary plan description made available to participants and beneficiaries.

In addition to information described above, a group or health plan issuer must provide to participants or beneficiaries upon request information on: (i) any network characteristics with detailed lists of primary care providers and specialists and their geographic locations; (ii) any special disease management programs or programs for persons with disabilities, whether these programs are voluntary and if benefits would differ significantly for participants in care management; (iii) whether a specific drug or biological is included in the plan's formulary and procedures for waiver requests; (iv) the procedures and medically-based criteria used in an adverse coverage decision if the determination relates to medical necessity, an experimental treatment or technology; (v) the basis on which any preauthorization and utilization review requirement has resulted in an adverse coverage decision; (vi) the accreditation and licensing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licensing authority; (vii) the latest information on enrollee satisfaction maintained by the plan or health insurance issuer; (viii) the latest information on quality performance maintained by the plan or health insurance issuer; and (ix) information about the frequency and outcome of external review decisions requested by enrollees of the plan or health insurance issuer.

Upon request, any health care professional treating a participant or beneficiary under a group health plan must provide to the participant or beneficiary a description of his or her professional qualifications, privileges, experience and general description of the method of compensation for medical care according to categories that may be specified by the Secretary.

In addition, upon request, any health care facility from which a participant or beneficiary has sought treatment under a group health plan must provide to the participant or beneficiary a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status, if any, with standard-setting organizations.

Subsection (f). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan and health insurance issuer must make the summary plan description available for any coverage option in which the participant or prospective participant is eligible to enroll and any information described in clauses (i),(ii),(iii),(vi),(vii), and (viii) of subsection (e)(2)(B).

Subsection (g). Advance Notice of Changes in Drug Formularies. This subsection requires the plan to inform participants not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary used by the plan in the treatment of a chronic illness or disease.

Section 2102. Effective Date.

Subsection (a). In General. Amendments made by Subtitle B—Patient Access to Information will apply to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The subsection also requires the Secretary to issue all necessary regulations before that date. As under current law, the application of Subpart 2, as amended by this section, applies with respect to group health plans that are nonfederal governmental plans and with respect to health insurance coverage offered in connection with all group health plans (private and governmental).

Subsection (b). Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle B, no enforcement actions shall be taken against a plan or issuer for violating a requirement imposed by the amendments before final regulations are issued.

Subtitle C—HealthMarts

Section 2201. Short Title of Subtitle. The short title of this subtitle is the "Health Care Consumer Empowerment Act of 1998."

Section 2202. Expansion of Consumer Choice through HealthMarts.

Subsection (a). In General. This section amends the Public Health Service Act by adding the following new title:

TITLE XXVIII— HEALTHMARTS

Section 2801. Definition of HealthMart.

Subsection (a). In General. This subsection defines the "HealthMart" as a legal entity that meets several requirements specified in the Act. In short, the HealthMart is an organization that offers health benefits within a defined geographic area (or areas), provides administrative services to purchasers, and disseminates and files information. Requirements are described below.

(1) Organization. The HealthMart is a private, nonprofit organization operated under the direction of a board of directors. The board is composed of representatives from: small employers, employees of small employers, health care providers (which may be physicians, other health care professionals, health care facilities, or any combination thereof), and entities that underwrite or administer health benefits coverage (such as insurance companies, health maintenance organizations, and licensed provider-sponsored organizations). There must be at least 2 board members from each group and there must be the same number from each group.

(2) Offering health benefits coverage. The HealthMart, in conjunction with health insurance issuers that offer health benefits

coverage through the HealthMart, must make available health benefits coverage at rates (including employer's and employee's share) that are established by the health insurance issuer on a policy or product specific basis and that may vary only as permissible under State law. A HealthMart is deemed to be a group health plan for purposes of applying section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of this Act, and section 9802(b) of the Internal Revenue Code of 1986. (These provisions limit variation of required premiums for health benefits coverage, for similarly situated individuals, on the basis of health status-related factors.)

Nondiscrimination in coverage offered. The HealthMart may not offer health benefits coverage to an eligible employee in a geographic area (as specified in (3) below) unless the same coverage is offered to all such employees in the same geographic area. Section 2711(a)(1)(B) of this Act limits denial of enrollment of certain eligible individuals under health benefits coverage in the small group market. Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law.

No financial underwriting. The HealthMart provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

Minimum coverage. Requires the HealthMart to maintain at least 10 purchasers and 100 members by the end of the first year of its operation and thereafter.

(3) Geographic areas. Requires the HealthMart to specify the geographic area (or areas) in which it makes available health benefits coverage offered by health insurance issuers to small employers. Such an area must encompass at least one entire county or equivalent area. In the case of a HealthMart that serves more than one State, such geographic areas may be areas that include portions of two or more contiguous States. Allows the establishment and operation of more than one HealthMart in a geographic area. Does not limit the number of HealthMarts that may operate in any area.

(4) Provision of administrative services to purchasers. The HealthMart provides administrative services for purchasers. Such services may include accounting, billing, enrollment information, and employee coverage status reports. Nothing in this subsection should be construed as preventing a HealthMart from serving as an administrative service organization to any entity.

(5) Dissemination of information. Requires the HealthMart to collect and disseminate (or arrange for the collection and dissemination of) consumer-oriented information on the scope, cost, and enrollee satisfaction of all coverage options offered through the HealthMart to its members and eligible individuals, in a manner defined by the Health Mart as appropriate to the type of coverage offered. To the extent practicable, this must include consumer-oriented information on provider performance, locations and hours of operation of providers, outcomes, and similar matters. Allows the dissemination of this information or other information by the HealthMart or by health insurance issuers through electronic or other means.

(6) Filing information. Requires the HealthMart to file information that demonstrates the HealthMart's compliance with the applicable requirements of this title with the applicable Federal authority; or in accordance with rules established under section 2803(a), to file with a State such information as the State may require to demonstrate such compliance.

Subsection (b). Health Benefits Coverage Requirements. This subsection specifies consumer protection requirements, an alternative process for approval of health benefits coverage in case of discrimination or delay, examples of types of coverage, and wellness bonuses for health promotion.

(1) Compliance with consumer protection requirements. Requires that any health benefits coverage offered through a HealthMart must be underwritten by a health insurance issuer that is licensed (or otherwise regulated) under State law, meets all applicable State standards relating to consumer protection (subject to section 2802(a)), and offers the coverage under a contract with the HealthMart. Subject to the provisions of (2) below, health benefit coverage offered through HealthMarts must be approved or otherwise permitted to be offered under State law. Finally, HealthMarts must provide full portability of creditable coverage for individuals who remain members of the same HealthMart notwithstanding that they change the employer through which they are members (in accordance with the provisions of the parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and titles XXII and XXVII of this Act), so long as both employers are purchasers in the HealthMart.

(2) Alternative process for approval of health benefits coverage in case of discrimination or delay. The requirement that health benefit coverage offered through HealthMarts be approved or otherwise permitted to be offered under State law does not apply to a policy or product of health benefits coverage offered in a State if the health insurance issuer seeking to offer such policy or product files an application to waive such requirement with the applicable Federal authority, and the authority determines, based on the application and other evidence presented to the authority, that:

—either (or both) of the grounds (described next) for approval of the application has been met; and

—the coverage meets the applicable State standards (other than those that have been preempted under section 2802).

Grounds. The grounds described above are:

—the State has failed to complete action on the policy or product (or rates for the policy or product) within 90 days of the date of the State's receipt of a substantially complete application. (No period before the date of the enactment of this section shall be included in determining such 90-day period.)

—the State has discriminatorily denied an application if:

(1) the standards or review process imposed by the State as a condition of approval of the policy or product imposes either any material requirements, procedures, or standards to such policy or product that are not generally applicable to other policies and products offered or any requirements that are preempted under section 2802; or

(2) the State requires the issuer, as a condition of approval of the policy or product, to offer any policy or product other than such policy or product.

Enforcement. In the case of a waiver granted to an issuer with respect to a State, the Secretary may enter into an agreement with the State under which the State agrees to provide for monitoring and enforcement activities with respect to compliance of such an issuer and its health insurance coverage with the applicable State standards described above (and in (A)(ii) of subsection (b)). Requires that such monitoring and enforcement be conducted by the State in the same manner as the State enforces such standards with respect to other health insurance issuers and plans, without discrimination based on the type of issuer to which the standards apply. Requires that such an agreement must specify or establish mechanisms by which compliance activities are undertaken, while not lengthening the time required to review and process applications for waivers.

(3) Examples of types of coverage. The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following (if it meets the other applicable requirements of this title): coverage through a health maintenance organization, coverage in connection with a preferred provider organization, coverage in connection with a licensed provider-sponsored organization, indemnity coverage through an insurance company, coverage offered in connection with a contribution into a medical savings account or flexible spending account, coverage that includes a point-of-service option, coverage offered in conjunction with community health centers (as defined in section 330B(e) of the PHS Act, as amended by this bill) or any combination of such types of coverage.

(4) Wellness bonuses for health promotion. Requires that nothing in this title be construed as precluding a health insurance issuer offering health benefits coverage through a HealthMart from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the HealthMart and comply with all other provisions of this title and do not discriminate among similarly situated members.

Subsection (c). Purchasers, Membership, Health Insurance Issuers.

(1) Purchasers. Subject to the provisions of this title, a HealthMart must permit any small employer to contract with the HealthMart for the purchase of health benefits coverage for its employees and dependents of those employees and may not vary conditions of eligibility (including premium rates and membership fees) of a small employer to be a purchaser.

Role of Associations, brokers, and licensed health insurance agents. Nothing in this section should be construed as preventing an association, broker, licensed health insurance agent, or other entity from assisting or representing a HealthMart or small employers from entering into appropriate arrangements to carry out this title.

Period of Contract. The HealthMart may not require a contract between a HealthMart and a purchaser to be effective for a period of longer than 12 months. (However, this should not be construed as preventing such a contract from being extended for additional 12-month periods or preventing the purchaser from voluntarily electing a contract period of longer than 12 months.)

Exclusive nature of contract. Such a contract must provide that the purchaser agrees not to obtain or sponsor health benefits coverage, on behalf of any eligible employees (and their dependents), other than through the HealthMart. (However, this does not apply to an eligible individual who resides in an area for which no coverage is offered by any health insurance issuer through the HealthMart.)

(2) Members. Under rules established to carry out this title, with respect to a small employer that has a purchaser contract with a HealthMart, individuals who are employees of the employer may enroll for health benefits coverage (including coverage for dependents of such enrolling employees) offered by a health insurance issuer through the HealthMart.

Nondiscrimination in enrollment. A HealthMart may not deny enrollment as a member to an individual who is an employee (or dependent of such an employee) eligible to be so enrolled based on health status-related factors, except as may be permitted consistent with section 2742(b).

Annual open enrollment period . Requires the HealthMart to provide for an annual open enrollment period of 30 days during which members may change the coverage option in which they are enrolled.

Rules of eligibility . The HealthMart may establish rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period (see above). Such rules must be applied consistently to all purchasers and members within the HealthMart and shall not be based in any manner on health status-related factors and may not conflict with sections 2701 and 2702 of this Act.

(3) Health insurance issuer.

Premium collection. Requires that the contract between a HealthMart and a health insurance issuer provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the HealthMart, for the payment of the premiums collected by the HealthMart (or the issuer) for such coverage (less a pre-determined administrative charge negotiated by the HealthMart and the issuer) to the issuer.

Scope of service area. Nothing in this title should be construed as requiring the service area of a health insurance issuer with respect to health insurance coverage to cover the entire geographic area served by a HealthMart.

Availability of coverage options. A HealthMart must enter into contracts with one or more health insurance issuers in a manner that assures that at least 2 health insurance coverage options are made available in the geographic area specified under section (a)(3)(A) of this bill.

Subsection (d). Prevention of Conflicts of Interest.

For boards of directors. Provides that a member of a board of directors of a HealthMart may not serve as an employee or paid consultant to the HealthMart, but may receive reasonable reimbursement for travel expenses for purposes of attending meetings of the board or its committees.

For boards of directors or employees. An individual is not eligible to serve in a paid or unpaid capacity on the board of directors of a HealthMart, or as an employee of the HealthMart, if the individual is employed by, represents in any capacity, owns, or controls any ownership interest in a organization from whom the HealthMart receives contribution, grants, or other funds not connected with a contract for coverage through the HealthMart.

Employment and employee representatives. Requires that an individual who is serving on a board of directors of a HealthMart must not be employed by or affiliated with a health insurance issuer or be licensed as or employed by or affiliated with a health care provider. In the previous sentence, the term "affiliated" does not include membership in a health benefits plan or obtaining health benefits coverage offered by a health insurance issuer.

Subsection (e). Construction.

Network of Affiliated HealthMarts. Provides that nothing in this section should be construed as preventing one or more HealthMarts serving different areas (whether or not contiguous) from providing for some or all of the following (through a single administrative organization or otherwise):

(1) Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HealthMarts;

(2) Providing for crediting of deductibles and other cost-sharing for individuals who are provided health benefits coverage through the HealthMarts (or affiliated HealthMarts) and who continue to receive such coverage through the same health insurance issuer after (a) a change of employers through which the coverage is provided, or (b) a change in place of employment to an area not served by the previous HealthMart.

Permitting HealthMarts to adjust distributions among issuers to reflect relative risk of enrollees. Does not preclude a HealthMart from providing for adjustments in amounts distributed among the health insurance issuers offering health benefits coverage through the HealthMart based on factors such as the relative health care risk of members enrolled under the coverage offered by the different issuers.

Uniform minimum participation and contribution rules. Does not preclude a HealthMart from establishing minimum participation and contribution rules (described in section 2711(e)(1)) for small employers that apply to become purchasers in the HealthMart, so long as such rules are applied uniformly for all health insurance issuers.

Section 2802. Application of Certain Laws and Requirements.

Subsection (a). Authority of States. Provides that nothing in this section should be construed as preempting State laws relating to the following:

—The regulation of underwriters of health coverage, including licensure and solvency requirements;

—The application of premium taxes and required payments for guaranty funds or for contributions to high-risk pools;

—The application of fair marketing requirements and other consumer protections (other than those specifically relating to an item described in subsection (a));

—The application of requirements relating to the adjustment of rates for health insurance coverage.

Subsection (b). Treatment of Benefit and Grouping Requirements. Provides that State laws are superseded and shall not apply to health benefits coverage made available through a HealthMart, insofar as they relate to any of the following:

—benefit requirements for health benefits coverage offered through a HealthMart, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII of the PHS Act or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage;

—requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for such coverage;—any other requirements (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through a HealthMart, if the HealthMart meets the requirements of this title.

Any State law or regulation relating to the composition or organization of a HealthMart is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

Subsection (c). Application of ERISA Fiduciary and Disclosure Requirements. The board of directors of a HealthMart is deemed to be a plan administrator for purposes of applying parts 1 and 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974. The HealthMart shall be treated as such a plan and the enrollees shall be treated as participants and beneficiaries for purposes of applying such provisions pursuant to this subsection.

Subsection (d). Application of ERISA Renewability Protection.—A HealthMart is deemed to be a group health plan that is a multiple employer welfare arrangement for purposes of applying section 703 of the Employee Retirement Income Security Act of 1974.

Subsection (e). Application of Rules for Network Plans and Financial Capacity. The provisions of subsections (c) and (d) of section 2711 of ERISA apply to health benefits coverage offered by a health insurance issuer through a HealthMart.

Subsection (f). Construction Relating to Offering Requirement. Nothing in section 2711(a) of this Act (relating to guaranteed issuance) or section 703 of the Employee Retirement Income Security Act of 1974 (relating to guaranteed renewal) shall be construed as permitting the offering outside the HealthMart of health benefits coverage that is only made available through a HealthMart under this section because of the application of subsection (b).

Subsection (g). Application to Guaranteed Renewability Requirements in Case of Discontinuation of an Issuer. For purposes of applying section 2712 in the case of health insurance coverage offered by a health insurance issuer through a HealthMart, if the contract between the HealthMart and the issuer is terminated and the HealthMart continues to make available any health insurance coverage after the date of such termination, the following rules apply:

Renewability. The HealthMart shall fulfill the obligation under such section of the issuer renewing and continuing in force coverage by offering purchasers (and members and their dependents) all available health benefits coverage that would otherwise be available to similarly-situated purchasers and members from the remaining participating health insurance issuers in the same manner as would be required of issuers under section 2712(c).

Application of association rules. The HealthMart shall be considered an association for purposes of applying section 2712(e).

Subsection (h). Construction in Relation to Certain Other Laws. Nothing in this title shall be construed as modifying or affecting the applicability to HealthMarts or health benefits coverage offered by a health insurance issuer through a HealthMart of parts 6 (relating to continuation of coverage under group health plans) and 7 (relating to group health plan portability, access, and renewability) of subtitle B of title I of the Employee Retirement Income Security Act of 1974 or titles XXII (relating to requirements for certain group health plans for certain state and local employees) and XXVII (regarding requirements relating to health insurance coverage) of this Act.

Section 2803. Administration.

Subsection (a).

In General. Provides that the applicable federal authority must administer this title through the division established under subsection (b) of this section, and is authorized to issue such regulations as may be required to carry out this title. These regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. Provides that the applicable Federal authority must incorporate the process of >deemed file and use' with respect to the information filed under section 2801(a)(6)(A) of this title and shall determine whether information filed by a HealthMart demonstrates compliance with the applicable requirements of this title. Such authority shall exercise its authority under this title in a manner that fosters and promotes the development of HealthMarts in order to improve access to health care coverage and services.

Subsection (b). Administration Through Health Care Marketplace Division. Provides that the applicable federal authority carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title. In addition to other responsibilities provided under this title, such Division is responsible for: oversight of the operations of HealthMarts under this title, and the periodic submission of reports to Congress on the performance of HealthMarts under this title under subsection (c), below.

Subsection (c). Periodic Reports. Requires that the applicable Federal authority submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate private entities.

Section 2804. Definitions. Provides the following definitions for purposes of this title:

Applicable Federal authority. The term 'applicable Federal authority' means the Secretary of Health and Human Services.

Eligible employee or individual. The term 'eligible' means, with respect to an employee or other individual and a HealthMart, an employee or individual who is eligible under section 2801(c)(2), as provided in this Act, to enroll or be enrolled in health benefits coverage offered through the HealthMart.

Employer, employee, dependent. Except as the applicable Federal authority may otherwise provide, the terms "employer", "employee", and "dependent", as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meanings applied to such terms with respect to such coverage under the laws of the State relating to such coverage and such an issuer.

Health benefits coverage. The term 'health benefits coverage' has the meaning given the term group health insurance coverage in section 2791(b)(4) of the PHS Act.

Health insurance issuer. The term 'health insurance issuer' has the meaning given the term in section 2791(b)(2).

Health status-related factor. The term 'health status-related factor' has the meaning given the term in section 2791(d)(9) of the PHS Act.

HealthMart. The term 'HealthMart' is defined above in section 2801(a)

Member. The term 'member" means, with respect to a HealthMart, an individual enrolled for health benefits coverage through the HealthMart under section 2801(c)(2).

Purchaser. The term 'purchaser' means, with respect to a HealthMart, a small employer that has contracted under section 2801(c)(1)(A) with the HealthMart for the purchase of health benefits coverage.

Small employer. The term 'small employer' has the meaning given such term in section 2791(e)(4).

Subsection (b). Effective Date. In general, the amendment made by subsection (a) shall take effect on January 1, 2000. The Secretary of Health and Human Services shall issue all regulations necessary to carry out the amendment made by subsection (a) before January 1, 2000.

Subtitle D—Community Health Organizations

Section 2301. Promotion of Provision of Insurance by Community Health Organizations. This section amends subpart I of part D of title III of the Public Health Service Act by authorizing the waiver of state licensure requirements by community health organizations. It adds the following new section 330B.

Section 330B. Waiver of state licensure requirement for community health organizations in certain cases.

Subsection (a). In General. A community health organization may offer health insurance coverage in a state in which it is not licensed if the organization files an application for waiver of the licensure requirement with the Secretary of Health and Human Services by November 1, 2003, and the Secretary determines that the grounds for approval of the application have been met. The grounds for approval of a waiver include: (1) the state failed to complete action on a licensing application within 90 days of the state's receipt of the application; (2) the waiver application denied by the state is discriminatory in that the standards or review process used by the state imposed requirements, procedures, or standards (other than solvency requirements) that are not generally applicable to other entities engaged in substantially similar business; or (3) the waiver application denied by the state is based on the organizations' failure to meet applicable state solvency requirements and such requirements are not the same as those established by the Secretary. A waiver granted under this subsection: is effective only in the state for which it is granted; is effective for a 36-month period and may be renewed for up to 36 additional months; may be continued on condition that the organization complies with state consumer protection and quality standards; and preempts state law. The Secretary is required to grant or deny a waiver application within 60 days after a substantially complete application is filed. The Secretary is required to report to the House Committee on Commerce and the Senate Committee on Labor and Human Resources, by December 31, 2002, on whether the waiver process should be continued after December 31, 2003.

Subsection (b). Assumption of full financial risk. The community health organization, in order to qualify for a waiver, must assume full financial risk on a prospective basis for the provision of covered health care services. The organization may obtain insurance or make other arrangements for: (1) the costs of providing services, the aggregate value of which exceeds such aggregate level as the Secretary specifies from time to time; (2) providing services other than through the organization because medical necessity required their provision before they could be secured through the organization; and (3) not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 105 percent of its income for such fiscal year. The organization may also make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions, to assume all or part of the financial risk on a prospective basis for the provision of health services.

Subsection (c). Certification of provision against risk of insolvency for unlicensed CHOs. Each community health organization that is not licensed by a state and which has an approved waiver application must meet the standards established by the Secretary relating to financial solvency and capital adequacy. The Secretary is required to establish a certification process for organizations to meet the solvency standards.

Subsection (d). Establishment of solvency standards for community health organizations. The Secretary is required to establish on an expedited basis, using a negotiated rulemaking process and through the Health Resources and Services Administration, standards relating to financial solvency and capital adequacy for entities to meet in order to obtain an approved waiver. The Secretary, in establishing such standards, must consult with interested organizations, including the National Association of Insurance Commissioners, the Academy of Actuaries, and organizations representing federally qualified health centers. The Secretary must take into account the following factors for such standards: (1) the delivery system assets of an organization; (2) alternative means of protecting against insolvency; and (3) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations. The standards must include provisions to prevent enrollees from being held liable to any person or entity for the organization's debts in the event of the organization's insolvency.

The Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of Medicare beneficiaries, and other interested parties, must: (1) publish a notice in the Federal Register of the rulemaking process within 45 days of enactment of this Act; (2) establish a target date for publication of the rule of April 1, 1999; (3) allow 15 days, instead of 30 days, for a comment period; and (4) appoint a negotiated rulemaking committee not later than 30 days after the comment period and nominate a facilitator not later than ten days after appointment of the committee. The Secretary must provide for publication of a rule and terminate the process if, by January 1, 1999, the committee reports that it is unlikely that it will reach consensus within one month of the target date. If the committee is not terminated, then it must report a proposed rule not later than one month before the target date of publication. The Secretary must publish a rule not later than the target date of publication that will be effective on an interim basis and include at least a 60-day public comment period. The Secretary must provide for consideration of comments and republish such rule not later than one year after the target date.

Subsection (e). Definitions. A community health organization is an organization that is a federally-qualified health center or is controlled by one or more federally-qualified health centers. A federally-qualified health center is as defined under Medicaid law and generally is a health center that meet statutory requirements but does not receive grant

funding. "Health insurance coverage" has the meaning given in section 2701 (b) (1) of the Public Health Service Act. "Control" means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Patient Protections

Section 3001. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric and Gynecological Care, Pediatric Care. Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) is amended by adding at the end the following new section:

Section 9813. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric And Gynecological Care, Pediatric Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan may not prohibit or restrict health care professionals under contract from advising participants or beneficiaries about their health status or treatment, even if benefits for such care or treatment are not covered by the plan. Health care professional is defined as a physician (section 1861(r) of the Social Security Act) or other health care professional whose services are provided under the group health plan. This includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

Subsection (b). Patient Access to Emergency Medical Care. This subsection prohibits group health plans or health insurance issuers from requiring beneficiaries to get preauthorization before seeking emergency medical services and requires them to cover emergency medical screening examinations obtained at any emergency medical care facility, whether in or outside a plan's network of affiliated providers, if a prudent layperson with an average knowledge of health and medicine would judge the examination necessary in order to determine whether emergency medical care is needed. The plan or issuer must provide additional emergency medical services to the extent a prudent emergency medical professional determines necessary to avoid the consequences described in section 503(b)(8)(I) of ERISA as amended by this Act. These requirements apply to the extent the group health plan or health insurance issuer covers emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act), except for items or services specifically excluded; and to items or services within the capability of the emergency facility, including routinely available ancillary services. This subsection does not prevent a group health plan or issuer from imposing any form of cost-sharing for emergency medical services so long as the cost-sharing is uniformly applied.

Subsection (c). Patient Access to Obstetric and Gynecological Care. If the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating physician specializing in such care, and the participant's designated primary care provider is not such a specialist, authorization or referral by a primary care provider must not be required for routine gynecological or obstetric care. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric and gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine pediatric care, and requires the designation of a primary care provider, the parent or guardian of any plan beneficiary under 18 years of age may designate a participating physician who specializes in pediatrics, if available, as the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans that have two or more coverage options to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option.

Subsection (b). Clerical Amendment. This subsection adds a clerical amendment to the table of sections.

Section 3002. Effective Date and Related Rules.

Subsection (a). In General. This subsection states that the amendments made by Subtitle A will apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of the Act. The Secretary is also required to issue all necessary regulations before the effective date.

Subsection (b). Limitation on Enforcement Actions. No penalty shall be imposed on any failure to comply with any requirement imposed by the amendments made by section 3101 to the extent such failure occurs before the date of issuance of regulations issued in connection with such requirement if the plan has sought to comply in good faith with such requirement.

Subsection (c). Special Rule for Collective Bargaining Agreements. If a group health plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsections (b), (c), and (d)of section 9813 of the Internal Revenue Code of 1986 (as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement relating to the plan, or January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must not be treated as a termination of the collective bargaining agreement.

Subtitle B—Patient Access to Information

Section 3101. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Health Care Providers, And Quality of Medical Care.Subsection (a). In General. This subsection amends subchapter B of chapter 100 of the Internal Revenue Code of 1986 (relating to other requirements) by adding the following new Section 9814.

Section 9814. Disclosure by Group Health Plans.

Subsection (a). Disclosure Requirement. This subsection requires the administrator of each group health plan to ensure that the summary plan descriptions required under ERISA section 102 contain the information described in subsections (b), (c), (d), and (e)(2)(A).

Each health insurance issuer connected with a group health plan is also required to provide the necessary information to the administrator or to plan participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required under subsection (a) includes a description of: (A) covered benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage for emergency medical care, the extent of access to urgent care centers, and definitions of terminology referring to emergency medical care; (C) plan benefits for preventive services; (D) any use or application of a drug formulary, including a summary of the process for determining the formulary; (E) and COBRA benefits available under the plan.

Information must also be provided on any limitations, exclusions, or restrictions on covered benefits, including: (A) benefits specifically excluded from coverage, categorized by types of items and services; (B) whether coverage for medical care can be limited or excluded based on utilization review or preauthorization requirements; (C) any lifetime, annual, or other period limitations on coverage, categorized by types of benefits; (D) any limitations or exclusions for custodial care; (E) experimental treatment or technology; or (F) failure to meet the plan's requirements for medical appropriateness or necessity; (G) coverage of second or subsequent opinions; (H) whether referral from a primary care provider is required for specialty care; (I) if continuity of care may be affected by the departure by the health care professional from a defined set of providers; restrictions on coverage of emergency services; and (J) any financial responsibility of participants or beneficiaries for emergency services.

Subsection (c). Participant's Financial Responsibilities. The summary plan description must also explain the participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and whether this may vary if the health care provider is not one of a defined set of providers.

Subsection (d). Dispute Resolution Procedures. The summary plan description must describe the process for dispute resolution adopted by the plan pursuant to section 503(b) of ERISA as amended by this Act. This must explain the procedures and time frames for coverage decisions and internal and external review.

Subsection (e). Information Available on Request. Upon written request, a group health plan offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include, in addition to information required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions with available benefits. This is required no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary. Requirements may also be met by making the information generally available on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.A summary description of the types of information available on request must be included in the summary plan description made available to participants and beneficiaries.

In addition to information described above, a group or health plan issuer must provide to participants or beneficiaries upon request information on: (i) any network characteristics with detailed lists of primary care providers and specialists and their geographic locations; (ii) any special disease management programs or programs for persons with disabilities, whether these programs are voluntary and if benefits would differ significantly for participants in care management; (iii) whether a specific drug or biological is included in the plan's formulary and procedures for waiver requests; (iv) the procedures and medically-based criteria used in an adverse coverage decision if the determination relates to medical necessity, an experimental treatment or technology; (v) the basis on which any preauthorization and utilization review requirement has resulted in an adverse coverage decision; (vi) the accreditation and licensing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licencing authority; (vii) the latest information, if any, on enrollee satisfaction maintained by the plan; (viii) the latest information on quality performance maintained by the plan; and (ix) information about the frequency and outcome of external review decisions requested by enrollees of the plan or health insurance issuer.

Upon request, any health care professional treating a participant or beneficiary under a group health plan must provide to the participant or beneficiary a description of his or her professional qualifications, privileges, experience and general description of the method of compensation for medical care according to categories that may be specified by the Secretary.

In addition, upon request, any health care facility from which a participant or beneficiary has sought treatment under a group health plan must provide to the participant or beneficiary a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status, if any, with standard-setting organizations.

Subsection (f). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan must make the summary plan description available for any coverage option in which the participant or prospective participant is eligible to enroll and any information described in clauses (i),(ii),(iii),(vi),(vii), and (viii) of subsection (e)(2)(B).

Subsection (g). Advance Notice of Changes in Drug Formularies. Plans must inform participants not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary used by the plan in the treatment of a chronic illness or disease.

Subsection (b). Clerical Amendment. This subsection amends the table of sections.

Section 3102. Effective Date.

Subsection (a). In General. Amendments made by Subtitle B—Patient Access to Information will apply to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The subsection also requires the Secretary to issue all necessary regulations before that date.

Subsection (b). Limitation on Enforcement Actions. If the group health plan has sought to comply in good faith with the amendments of Subtitle B, no enforcement actions shall be taken against a plan or issuer for violating a requirement imposed by the amendments before final regulations are issued.

Subtitle C—Medical Savings Accounts

Section 3201. Expansion of Availability of Medical Savings Accounts (MSAs)

Subsection (a). Repeal of Limitations on Number of Medical Savings Accounts. The current limitation on the number of taxpayers that may have MSAs and the rules for applying this limitation are repealed.

Subsection (b). All Employers May Offer MSAs. The legislation removes the current restriction that only small employers may offer MSAs.

Subsection (c). Increase in Amount of Deduction Allowed for Contributions to MSAs. The legislation allows monthly contributions of up to 1/12th the annual deductible for the taxpayer's coverage under the high deductible plan. The current percentage limitations are repealed.

Subsection (d). Both Employers and Employees May Contribute to MSAs. The legislation allows both employers and employees to contribute to an MSA. Currently, if an employer makes a contribution the employee may not contribute.

Subsection (e). Reduction in Permitted Deductibles under High Deductible Health Plans. The legislation lowers the allowable deductible for high deductible plans from $1,500 to $1,000 in the case of single coverage and $3,000 to $2,000 in the case of family coverage. It also postpones from 1998 to 1999 the first year for which cost-of-living adjustments are applied to the minimum allowable deductible, the maximum allowable deductible, and the maximum out-of-pocket requirements.

Subsection (f). MSAs May Be Offered under Cafeteria Plans. The current restriction against funding MSAs through cafeteria plans is repealed.

Subsection (g). Special Rules for Certain Federal Annuitants. Individuals receiving immediate Federal annuities may also have MSAs.

Subsection (h). Effective Date. The amendments made by this section apply to taxable years ending after the date of enactment of this legislation.

Section 3202. Exception from Insurance Limitation in Case of Medical Savings Accounts (MSAs).

Subsection (a). Insurance Offered by Community Health Centers. Qualified medical expenses (with respect to an account holder) includes coverage under insurance offered by a community health center if the coverage consists solely of required primary health benefits provided on a capitated basis. This exception applies only to individuals who in the taxable year involved have income that is less than 200% of the official poverty line. The exception applies only to the first 15,000 individuals enrolled in this insurance in a taxable year.

Subsection (b). Reports on Enrollment. Centers offering insurance coverage to individuals with MSAs shall provide reports as may be required by the Secretary of Health and Human Services and the Secretary of the Treasury to carry out the restriction on the number of individuals to whom the exception applies.

Section 3203. Sense of the House of Representatives. This section expresses the Sense of the House of Representatives that patients are best served when they are empowered to make informed choices about their own health care. The same is true regarding an individual's choice of health insurance. A system that gives people the power to choose the coverage that best meets their needs, combined with insurance market reforms, offers great promise of increased choices and greater access to health insurance for Americans.

Subtitle D—Revenue Offsets

See attached Joint Committee on Taxation Report No. JCX-56-98.

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

Section 4001. Federal Reform of Health Care Liability Actions. Title IV provides for Federal reform of health care liability actions.

Subsection (a). Applicability. This subsection specifies that reform provisions apply to any health care liability action brought in any State or Federal court. The provisions do not apply to any action for damages arising from a vaccine-related injury or death to the extent that the provisions of the National Vaccine Injury Compensation Program apply. The provisions also do not apply to actions under the Employment Retirement Income Security Act.

Subsection (b). Preemption. This subsection specifies that the provisions preempt State law to the extent State law provisions are inconsistent with the new requirements. However, they do not preempt State law to the extent State law provisions are more stringent.

Subsection (c). Effect on Sovereign Immunity and Choice of Law or Venue. This subsection provides that the new provisions do not waive or affect the defense of sovereign immunity asserted by any State or the U.S., affect the applicability of the Foreign Sovereign Immunities Act of 1976, preempt State choice-of -law rules with respect to claims brought by a foreign nation or citizen, or affect the right of any court to transfer venue.

Subsection (d). Amount in Controversy. This subsection specifies that in the case of any action under which the new provisions apply, and which is brought in federal court, the amount of economic damages, punitive damages, and attorneys fees or costs, are not included in the determination of whether the amount in controversy exceeds the minimum limit.

Subsection (e). Federal Court Jurisdiction Not Established on Federal Question Grounds. This subsection specifies that nothing in the new provisions is to be construed as establishing any new jurisdiction in the federal courts over health care liability actions.

Section 4002. Definitions. This section defines a number of terms.

Actual damages means damages awarded to pay for economic loss.

Alternative dispute resolution system or ADR means a system established under federal or state law that provides for resolution of health care liability claims other than through liability actions.

Claimant means any person who brings a health care liability action and any person on whose behalf the action is brought.

Clear and convincing evidence is that measure or degree of proof that produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations. It is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

Collateral source payments means any amount paid or reasonably likely to be paid

in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant as a result of injury or wrongful death pursuant to various laws, insurance policies, contracts, or other programs.

Drug has the meaning given the term under the Federal Food, Drug and Cosmetic Act.

Economic loss means any pecuniary loss resulting from injury to the extent recovery for such loss is allowed under state law. The term includes loss of earnings or other employment benefits, medical expense loss, replacement service loss, loss due to death, burial costs, and loss of business or employment opportunities.

Harm means any legally cognizable wrong or injury for which punitive damages may be imposed.

Health benefit plan means any of the following that provides benefits with respect to health care services: a hospital or medical expense incurred policy or certificate; a hospital or medical service plan contract; a health maintenance subscriber contract; or a Medicare+Choice plan offered under Medicare.

Health care liability action means a civil action brought in a state or federal court in which the claimant alleges a claim based on the provision of (or the failure to provide or pay for) health care services or the use of a medical product. The action may be brought against: a health care provider; an entity which is obligated to pay for health benefits under any health benefit plan (including persons or entities acting under a contract or arrangements); or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product. The term applies regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

Health care liability claim means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

Health care provider means any person that is engaged in the delivery of health care services in a state and is required by the state to be licensed or certified in order to engage in the delivery of services in the state.

Health care service means any service eligible for payment under a health benefit plan, including services related to the delivery or administration of such service.

Medical device has the meaning given the term under the Federal Food, Drug and Cosmetic Act.

Non-economic damages means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

Person means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including governmental entity.

Product seller means a person who (in the course of a business conducted for that purpose) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing a product in the stream of commerce. The term also includes a person who installs, repairs, or maintains the harm-causing aspect of a product. The term does not include: (i) a seller or lessor of real property; (ii) a provider of professional services in any case where the sale or use of a product is incidental to the furnishing of judgment, skill, or services; or (iii) any person who acts only in a financial capacity with respect to sale of the product or who leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

Punitive damages means damages awarded against any person to punish or deter such person or others from engaging in similar behavior in the future. The term does not include damages awarded to compensate for actual injury suffered.

State includes the 50 states, the District of Columbia, and all territories and possessions of the U.S.

Section 4003. Effective Date. The section specifies that the provisions of title IV of the bill apply to any health care liability action brought in any State or Federal court, and any health care liability claim subject to an ADR system, that is initiated on or after the date of enactment. Any health care liability claim or action arising from an injury occurring prior to enactment would be governed by the statute of limitations in effect at the time the injury occurred.

Subtitle B—Uniform Standards for Health Care Liability Actions

Section 4011. Statute of Limitations. This section establishes a uniform statute of limitations. Actions may not be brought more than two years after the injury is discovered or reasonably should be discovered. In no event may the action be brought more than five years after the date of the alleged injury.

Section 4012. Calculation and Payment of Damages

Subsection (a) Treatment of Non-Economic Damages. This subsection limits non-economic damages for losses resulting from an injury to $250,000. The limit applies regardless of the number of persons against whom the health care liability action is brought or the number of actions brought. The limitation does not apply to an action for damages based solely on intentional denial of medical treatment (necessary to preserve a patient's life that the patient is otherwise qualified to receive), against the wishes of the patient (or if the patient is incompetent, against the wishes of the patient's guardian), on the basis of the patient's present or predicted age, disability, degree of medical dependency or quality of life.

The subsection specifies that, if after enactment, a state enacts a law which prescribes the amount of non-economic damages that may be awarded, the state limit will apply. Similarly, if after enactment, a state limits the amount of recovery in a health care liability action, but doesn't delineate between economic and non-economic damages, the state limit will apply.

The subsection specifies that a defendant is only liable for the amount of non-economic damages attributable to that defendant's proportionate share of the fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all cases, the liability of a defendant for non-economic damages is several and not joint. A separate judgment is to be rendered against each defendant for the amount allocated to such defendant.

Subsection (b) Treatment of Punitive Damages. The subsection permits the award of punitive damages (to the extent allowed under State law) only if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct that was either specifically intended to cause harm or that manifested a conscious flagrant indifference to the rights or safety of others.

The subsection applies to any health care liability action brought in any federal or state court on any theory where punitive damages are sought. It does not create a cause of action for punitive damages. Further, it does not preempt or supersede any State or Federal law to the extent that such law would further limit punitive damage awards.

The subsection permits either party to request a separate proceeding (bifurcation) on the issue of whether punitive damages should be awarded and in what amount. If a separate proceeding is requested, evidence related only to the claim of punitive damages (as determined under state law) is inadmissible in any proceeding to determine whether actual damages should be awarded.

The subsection generally prohibits the award of punitive damages against a manufacturer or product seller of a drug or medical device. The prohibition applies in a case where the drug or device, or the adequacy of its packaging or labeling, was subject to premarket approval by the Food and Drug Administration (FDA) and had received such pre-market approval. The prohibition also applies where the drug is generally recognized as safe and effective according to conditions established by the FDA. The prohibition against punitive damage awards does not apply in any case where the defendant, before or after pre-market approval of the drug or device, intentionally and wrongfully withheld information or made misrepresentations to the FDA or to the Secretary (with respect to biological products) that is material and relevant to the harm suffered by the claimant. The prohibition against damage awards also does not apply if the defendant made an illegal payment to an FDA official or employee for the purpose of securing or maintaining approval of the drug or device.

The subsection provides that a manufacturer or product seller shall not be held liable for punitive damages related to adequacy of required tamper resistant packaging unless the packaging or labeling was found by clear and convincing evidence to be substantially out of compliance with the regulations.

Subsection (c) Periodic Payments for Future Losses. The subsection permits periodic (rather than lump sum) payment in any case in which damages awarded for future economic and non-economic loss exceeds $50,000. The judgment of a court awarding periodic payments may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of payments. The provision does not preclude a single lump sum settlement

Subsection (d) Treatment of Collateral Source Payments. The subsection permits a defendant to introduce evidence of collateral source payments. If such evidence is introduced, the claimant may introduce evidence of any amount paid or reasonably likely to be paid to secure the right to such collateral source payments. No provider of collateral source payments is permitted to recover any amount against the claimant or against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care liability action. This subsection applies to actions that are settled as well as actions that are resolved by a fact finder.

Section 4013. Alternative Dispute Resolution. The subsection requires that any system used to resolve health care liability actions or claims must include provisions consistent with those specified in the bill relating to statute of limitations, non-economic

damages, joint and several liability, punitive damages, collateral source rule, and periodic payments.

Section 4014. Reporting on Fraud and Abuse Enforcement Activities. This subsection requires the General Accounting Office to:

(1) monitor the compliance of the Department of Justice and all United States Attorneys-with the guideline entitled "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department on June 3, 1998, including any revisions to that guideline; and

(2) monitor the compliance of the Office of the Inspector General of the Department of Health and Human Services with the protocols and guidelines entitled "National Project Protocols—Best Practice Guidelines" issued by the Inspector General on June 3, 1998, including any revisions to such protocols and guidelines; and

(3) submit a report on such compliance to the Committee on the Judiciary, the Committee on Commerce, and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate not later than February 1, 1999, and every year thereafter for a period of four years ending February 1, 2002.

TITLE V—CONFIDENTIALITY OF HEALTH INFORMATION

Section 5001. Confidentiality of Protected Health Information.

Subsection (a). In General. The section amends Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) by adding the following text:

Part D—Confidentiality of Protected Health InformationInspection and Copying of Protected Health Information

Section 1181. Inspection And Copying of Protected Health Information.

Subsection (a). In General. The section generally authorizes, subject to the succeeding provisions of the section, a health care provider, health plan employer, health or life insurer, or educational institution to make available to a requesting individual (or a health care provider designated by the individual) his or her protected health information for inspection and copying.

Subsection(b). Access Through Originating Provider. Protected health information created by an originating provider and subsequently received by another health care provider or health plan as part of treatment or payment activities shall be made available for inspection and copying as provided in this section through the originating provider, rather than the receiving health care provider or health plan, unless the originating provider does not maintain the information.

Subsection (c). Investigational Information. Health information created as part of the requesting individual's participation in a clinical trial monitored by an institutional review board established pursuant to federal regulations adopted under the Public Health Service Act (42 U.S.C. 300v-1(b)) and Common Rule notice (56 Fed. Reg. 28003) shall be provided in response to a subsection (a) request only to the extent and in a manner consistent with such regulations.

Subsection (d). Other Exceptions. Unless ordered by a court of competent jurisdiction, the recipient of a subsection 1181(a) request is not required to grant the request if disclosure could reasonably be expected to endanger the life or physical safety, or cause substantial harm to any individual, or if the information has been compiled principally in anticipation of or for use in a civil, criminal, or administrative action or proceeding.

Subsection (e). Denial of Request For Inspection or Copying. If the recipient of a subsection 1181(a) request denies the request, the requesting individual shall be informed in writing of the reasons for the denial, the availability of procedures for further review of the denial, and the individual's right to file a concise statement setting forth the request.

Subsection (f). Statement Regarding Request. If a requesting individual has filed a concise statement pursuant to subsection 1181(e), any subsequent disclosure of that individual's protected health information shall include a notation concerning the statement and may include a concise statement of the reasons for the denial of the request for inspection and copying.

Subsection (g). Procedures. A health care provider, health plan employer, health or life insurer, or educational institution providing access to protected health information for inspection or copying under this section, may prescribe appropriate procedures and may require a requesting individual to pay reasonable costs associated with such inspection and copying.

Subsection (h). Inspection and Copying of Segregable Portion. A health care provider, health plan employer, health or life insurer, or educational institution receiving a subsection 1181(a) request shall permit the inspection and copying of any segregable portion of a record after the deletion of any portion that is not required to be disclosed under this section.

Subsection (i). Deadline. A health care provider, health plan employer, health or life insurer, or educational institution shall comply with or deny a subsection 1181(a) request not later than 30 days after the date of receiving such request.

Subsection (j). Rules Governing Agents. An agent of a health care provider, health plan employer, health or life insurer, or educational institution shall not be required to provide for the inspection and copying of protected health information, except where the information is retained by the agent and the agent has been asked by the health care provider, health plan employer, health or life insurer, or educational institution to fulfill the requirements of this section.

Section 1182. Supplementation of Protected Health Information.

Subsection (a). In General. Subject to subsection 1182(b), not later than 45 days after receiving a written request from an individual to amend his or her protected health information by adding a concise written statement, a health care provider, health plan employer, health or life insurer, or educational institution shall make the requested amendment, inform the individual of the amendment action, and make reasonable efforts to inform recipients of the unamended health information during the previous year of the addition of a supplement.

Subsection (b). Refusal to Amend. If a health care provider, health plan employer, health or life insurer, or educational institution refuses to make a requested subsection 1182(a) amendment, the requesting individual shall be informed of the reasons for the refusal, any procedures for further review of the refusal, and the individual's right to file a concise statement setting forth the requested amendment, and the individual's reasons for disagreeing with the refusal.

Subsection (c). Statement of Disagreement. If a requesting individual has filed a concise statement pursuant to subsection 1182(b), any subsequent disclosure of the disputed portion of the information shall include a notation concerning the statement and may include a concise statement of the reasons for the denial of the amendment request.

Subsection (d). Rules Governing Agents. An agent of a health care provider, health plan employer, health or life insurer, or educational institution shall not be required to make amendments to individually identifiable health information, except where the information is retained by the agent and the agent has been asked by the health care provider, health plan employer, health or life insurer, or educational institution to fulfill the requirements of this section.

Subsection (e). Duplicative Requests For Amendments. If a health care provider, health plan employer, health or life insurer, or educational institution receives a duplicative request for an amendment of health information and a statement of disagreement with respect to the request that has been filed, the requesting individual shall be informed of such filing and there shall be no further requirement to carry out the procedures under this section.

Subsection (f). Rule of Construction. This section shall not be construed to permit an individual to modify statements in his or her record that document the factual observations of another individual or state the results of diagnostic tests, or to permit an individual to amend his or her record as to the type, duration, or quality of treatment the individual believes he or she should have been provided.

Section 1183. Notice of Confidentiality Practices.

Subsection (a). Preparation of Written Notice. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall post or provide, in writing and in a clear and conspicuous manner, notice of their protected health information confidentiality practices. Such notice shall include a description of an individual's rights with respect to protected health information, the intended uses and disclosures of such information, the procedures established for the exercise of an individual's rights with respect to such information, and the procedures established for obtaining copies of the notice.

Subsection (b). Model Notice. The Secretary of Health and Human Services, after notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics, shall develop and disseminate, not later than 6 months after the date of the enactment of the Accessibility, Affordability, and Accountability Patient Protection Act of 1998, model notices of confidentiality practices for use under this section. Use of a model notice developed by the Secretary shall serve as a complete defense in any civil action to an allegation that a violation of this section has occurred.

Section 1184. Establishment of Safeguards.

Subsection (a). In General. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution shall establish, maintain, and enforce reasonable and appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of protected health information created, received, obtained, maintained, used, transmitted, or disposed of by them.

Subsection (b). Factors to Be Considered. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution subject to subsection 1184(a) shall consider the following factors in establishing safeguards under such subsection: the need for protected health information; the categories of personnel who will have access to such information; the feasibility of limiting access to individual identifiers; the appropriateness of the policy or procedure to the person and the medium in which protected health information is stored and transmitted; and the value of audit trails in computerized records.

Subsection (c). Relationship to Part C Requirement. Any safeguard established under this section shall be consistent with the requirement in section 1173(d)(2).

Subsection (d). Conversion to Nonidentifiable Health Information. A health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, health researcher, or educational institution subject to subsection 1184(a) shall, to the extent practicable and consistent with the purpose for which protected health information is maintained, convert such information into nonidentifiable health information.

Section 1185. Availability of Protected Health Information For Purposes of Health Care Operations

Subsection (a). Disclosure. The bill allows any person who maintains protected health information to disclose the information to a health care provider or a health plan in order to permit the provider or plan to conduct health care operations.

Subsection (b). Use. A health care provider or a health plan that maintains protected health information may use it to conduct health care operations.

Subsection (c). Limitation on Sale or Barter. Notwithstanding subsection (b), this subsection prohibits health care providers or health plans from selling or bartering protected health information as part of conducting health care operations.

Section 1186. Relationship to Other Laws.

Subsection (a). State Law. Part D, as established by the bill, preempts State law provisions that; (A) would be preempted as inconsistent with this title under the Supremacy Clause of the U.S. Constitution; (B) relate to authorization for the use or disclosure of protected health information for health care operations, or nonidentifiable health information; or (C) relate to the inspection, copying, or amendment of protected health information by the information-subject, to the notice of confidentiality practices, or to the establishment of safeguards for protected health information. Nothing in this part shall be construed to preempt or modify State privileges. There are exceptions to federal preemption for the following purposes of protected health information: (A) confidentiality of medical records maintained by a licensed mental health professional; (B) provision of health care or disclosure of information about a minor; (C) condition-specific limitations on disclosure as identified by the Secretary as posing a public health threat; (D) use or disclosure of information for use in public health reporting; (E) situations where the individual is unconscious, incompetent, or otherwise incapable of deciding whether to authorize disclosure of protected health information; or, (F) situations where the individual has a valid and applicable power of attorney.

Subsection (b). Federal Law. Part D shall not be construed to preempt, modify, or repeal any provision of Federal law relating to protected health information, or relating to an individual's access to protected health information or health care services. This part shall not be construed to preempt or modify Federal privileges.

Section 1187. Civil Penalties.

Subsection (a). Violation. A person determined by the Secretary to have substantially and materially failed to comply with this part shall be subject to, in addition to any other penalties that may be imposed: (1) in the case of a violation related to section 1181 or 1182, a civil penalty up to $500 for each violation but not more than $5,000 for all violations of an identical requirement or prohibition during a calendar year; (2) for violations of sections 1183, 1184, or 1185, to a civil penalty not more than $10,000 for each violation, but not to exceed $50,000 for all violations of an identical requirement or prohibition during the calendar year; or (3) in a case where the Secretary finds that violations occur with such frequency as to constitute a general business practice, to a civil penalty of not more than $100,000.

Subsection (b). Procedures For Imposition of Penalties. Section 1128A, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil or monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A.

Section 1188. Definitions. The bill defines the following terms:

Agent means a person, including a contractor, who represents and acts for another under the contract or relation of an agency, or whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between the principle and a third person.

Disclose means to release, transfer, provide access to, or otherwise divulge protected health information to any person other than an individual who is the subject of such information.

Educational institution means an institution or place accredited or licensed for purposes of providing for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under one corporate organization or government.

Employer means the definition used under ERISA, except that such term is required to include only employers of two or more employees.

Health care means: (a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, including appropriate assistance with disease or symptom management and maintenance, counseling, services or procedures with respect to the physical or mental condition of an individual or affecting the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or (b) any sale or dispensing, pursuant to a prescription or medical order, of a drug, device, equipment, or other health care related item to an individual, or for the use of an individual.

Health care operations means services, provided directly by or on behalf of a health plan or health care provider or by its agent, for any of the following purposes: (a) coordinating health care, including health care management of the individual through risk assessment, case management, and disease management; (b) conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development and improvement, and health promotion; (c) carrying out utilization review activities, including precertification and preauthorization of services, and health plan rating activities, including underwriting and experience rating; or (d) conducting or arranging for auditing services.

Health care provider means a person, who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of (a) a person who is licensed, certified, registered, or otherwise authorized by federal or state law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession; (b) a federal, state, employer-sponsored or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; or (c) an officer or employee of a person described in subparagraphs (a) or (b).

Health or life insurer means a health insurance issuer, as defined in section 9805(b)(2) of the Internal Revenue Code of 1986, or a life insurance company, as defined in section 816 of such Code.

Health plan means any health insurance plan, including any hospital or medical service plan, dental or other health service plan, health maintenance organization plan, plan offered by a provider-sponsored organization (as defined in section 1855(d) of the Social Security Act, the Medicare+Choice program), or other program providing or arranging for the provision of health benefits.

Health researcher means a person (or officer, employee, or agent of a person) who is engaged in systematic investigation, including research development, testing, data analysis, and evaluation, designed to develop or contribute to generalizable knowledge relating to basic biomedical processes, health, health care, health care delivery, or health care cost.

Nonidentifiable health information means protected health information from which personal identifiers that reveal the identity of the individual who is the subject of such information or provide direct means of identifying the individual (such as name, address, and social security number) have been removed, encrypted, or replaced with a code, so that the identity of the individual is not evident without (in the case of encrypted or coded information) the use of a key.

Originating provider means, when used with respect to protected health information, the health care provider who takes an action that initiates the treatment episode to which that information relates, such as prescribing a drug, ordering a diagnostic test, or admitting an individual to a health care facility. A hospital or nursing facility is the originating provider with respect to protected health information created or received as part of inpatient or outpatient treatment provided in the hospital or facility.

Payment activities means (a) activities undertaken (i) by, or on behalf of, a health plan to determine its responsibility for coverage under the plan; or (ii) by a health care provider to obtain payment for items or services provided to an individual, provided under a health plan, or provided based on a determination by the health plan or responsibility for coverage under the plan; and (b) includes the following activities: (i) billing,

claims management, medical data processing, other administrative services, and actual payment; (ii) determinations of coverage or adjudication of health benefit or subrogation claims; or (iii) review of health care services with respect to coverage under a health plan or justification of charges.

Person means a natural person; a government or governmental subdivision, agency, or authority; a company, corporation, estate, firm, trust, partnership, association, joint venture, society, or joint stock company; or any other legal entity.

Protected health information when used with respect to an individual who is the subject of information, means any information (including genetic information) that identifies the individual, whether oral or recorded in any form or medium, and that (a) is created or received by a health care provider, health plan, health oversight agency, public health authority, employer, health or life insurer, or educational institution; (b) relates to the past, present, or future physical or mental health or condition of an individual (including individual cells and their components); (c) is derived from the provision of health care to an individual or payment for the provision of health care to an individual; and (d) is not nonidentifiable health information.

State includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

Treatment means the provision of health care by a health care provider.

Writing means writing either in a paper-based, computer-based, or electronic form, including electronic signatures.

Subsection (b). Enforcement of Provisions Through Conditions of Participation. This subsection amends section 1842(h) of the Social Security Act to permit the Secretary to refuse to enter into an agreement with a physician or supplier, or to terminate or refuse to renew an agreement, if the physician or supplier is found to have violated the confidentiality of protected health information as established by the bill. This subsection also amends sections 1852(h), 1866(a)(1), and 1876(k)(4) of the Social Security Act to require that Medicare+Choice organizations, Medicare providers, and Health Maintenance Organizations with risk-sharing contracts under Medicare comply with the confidentiality of protected health information provisions established by the bill.

Subsection (c). Conforming Amendments. This subsection provides conforming amendments modifying the title heading of Title XI of the Social Security Act to read as follows: "Title XI — General Provisions, Peer Review, Administrative Simplification, and Confidentiality of Protected Health Information". This subsection also amends section 306(k)(5) of the Public Health Service Act to require the National Committee on Vital and Health Statistics to study the issues relating to section 1184 of the bill regarding the establishment of safeguards to protect health information. The National Committee is required to report the results of the study to the Congress by not later than one year after enactment of the bill.

Subsection (d). Effective Date. This subsection provides an effective date for the provisions of this section that is one year after enactment of the bill, with some exceptions; (1) the provisions in subsection (c)(2), the study on safeguards required of the National Committee on Vital and Health Statistics, and (2) section 1183(b) related to the development of a model notice of confidentiality practices.

Section 5002. Study and Report on Effect of State Law on Health-Related Research. The bill requires that one year after enactment of the bill, the Comptroller General of the U.S. prepare and submit to the Congress a report containing the results of a study on the effect of state laws on health-related research that is subject to review by an institutional review board or institutional review committee with respect to the protection of human subjects.

Section 5003. Study and Report on State Law on Protected Health Information.

Subsection (a). In General. The bill requires that not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a report containing the results of a study that (1) compiles State laws on the confidentiality of protected health information (as defined in section 1188 of the Social Security Act, as added by section 5001 of this Act); and (2) analyzing the effect of such laws on the provision of health care and securing payment for such care.

Subsection (b). Modification of Deadline. Section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) is amended by striking "36 months after the date of the enactment of this Act," (August 1999), and inserting "6 months after the date on which the Comptroller General of the United States submits to the Congress a report under section 5003(a) of the Patient Protection Act of 1998."

Section 5004. Protection for Certain Information Developed to Reduce Mortality or Morbidity or for Improving Patient Care and Safety

Subsection (a). Protection of Certain Information. Health care response information shall be exempt from any disclosure requirement in connection with a civil or administrative proceeding to the same extent as information developed by a health care provider with respect to any of the following: (1) peer review; (2) utilization review; (3) quality management or improvement; (4) quality control; (5) risk management; (6) internal review for purposes of reducing mortality, morbidity, or for improving patient care or safety.

Subsection (b). No Waiver of Protection Through Interaction with Accrediting Body. The protection of health care response information from disclosure shall not be deemed to be modified or in any way waived by the development or transfer of such information to an accrediting body.

Section 5005. Effective Date for Standards Governing Unique Health Identifiers for Individuals. Amends Section 1174 of the Social Security Act (42 U.S.C. 1320d-3) to preclude the Secretary of Health and Human Services from promulgating or adopting a final standard to be effective under section 1173(b) of the Social Security Act providing for a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard or containing provisions consistent with the standard.